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# FOREIGN GOVERNMENTS
## and Their Backgrounds

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FOREIGN GOVERNMENTS AND THEIR BACKGROUNDS

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# *Preface*

Each of the principal countries treated in this book is discussed by a man whose interest extends beyond the structure and functioning of the government to the history and culture of the nation concerned In each case, without losing sight of the fact that the book is intended to serve as a textbook in government, the authors place the governments in their historical and social setting As originally planned, only six governments were to be covered—those of Great Britain, France, Switzerland, Italy, Russia, and Japan With the promulgation of a West German constitution and the establishment of a West German government, it was decided to add a short section treating Germany in a summary fashion, pending her greater democratic experience

One of the authors, Wilfred Brenton Kerr, died on January 12, 1950, before he was able to read the proofs of his sections on England and Russia, and consequently he is not responsible for whatever errors his colleagues were unable to discover The other three authors desire to place on record their sense of loss at the premature death of a colleague distinguished both for teaching ability and scholarly productivity in a broad area, but especially in the fields of Canadian, colonial, Russian, and English history They fear that certain acknowledgments which he would have included must be omitted, it is certain, however, that he relied on the courteous services of the British Information Service in New York for considerable data on Great Britain and of the Soviet Embassy in Washington for some of his material on Russia He was also deeply appreciative of the constructive criticism of Professor James A Gathings of Bucknell University, who read his manuscript

The author of the French section received constant and prompt assistance from the Information Section of the French Embassy in New York, for which his thanks go to the director, M Michel Dumont, and to the assistant director, Mlle Daumarie French friends who have constructively read and criticized part or all of the section include Professors Georges Connes of Dijon, Lucien Wolff of Rennes, Raymond Las Vergnas of Paris, and Charles-Jacques Beyer of Buffalo President Harry W Rockwell of the Buffalo State College for Teachers read the manuscript as a friend and nonpolitical scientist, whose

point of view would have a differing value from that of professional experts Something of that value was also contributed by the author's sons, Roswell and David, students at Brown University and Williams College, respectively, who represent those at whom the book is primarily directed The German section received the benefit of criticism from Professor Theodore B Hewitt, chairman of the Department of German, University of Buffalo

For the chapters on Italy the author wishes to express his gratitude to Professor Piero Calamandrei of the University of Florence and to the Hon Ludovico Camangi, Undersecretary of Public Works in Italy, for their assistance in acquiring material on Italy, as well as to James Battistoni, the Italian Consular Agent in Buffalo, and to the Italian Embassy in Washington

For the chapters on Switzerland, the assistance of the Swiss Legation in Washington was invaluable, and the author feels particularly indebted to the Swiss Labor Attaché, Mr K F Rimmensberger The author also wishes to express his appreciation to Professor Dorothy Culp of the University of Connecticut for her help on the Swiss section and to Professor John Theodore Horton, chairman of the Department of History and Government, University of Buffalo, for his suggestions for the historical chapters in the Italian and Swiss sections

Mr Roku Yasui read the section on Japan and made valuable and much appreciated suggestions Finally, the authors wish to express their indebtedness to Professor David B Truman of Williams College, who read the Italian, Swiss, and Japanese manuscripts and gave them the benefit of his advice and criticism The galley proofs were also read and checked by another of Mr Kerr's colleagues, Mr Barton Bean, to whom the coauthors wish to express their gratitude for his helpful suggestions

THE AUTHORS

*May, 1950*

# Foreign Governments and Their Backgrounds

# *Introduction*

EACH of the countries whose governments are discussed in this book purports to be a democracy In each instance the governing class—and there is a governing class even in "classless" Russia—justifies its rule by claiming it represents not only the people's best interests but the people themselves, and in each case it is probable that the majority of the people believes that the government is operating in good faith and merits loyalty and support

In spite of the fact that the ultimate goal of each of these governments is the furtherance of the people's welfare and that the process in each instance is called democracy, the actual practices of the governments and the directions in which they seem to be heading are considerably divergent These divergences are in part due to the histories of the various countries, to their philosophies of history, and to their present economic and social conditions, and in part they are caused by the fact that the word *democracy* means many things to many men In spite of the divergences, however, in spite of the egregious errors we may believe at least one of these countries is committing, it is well to remember that all these peoples are moved by a common desire to create a better world and a common faith in something called democracy as the road to this better world

The following pages will be devoted to a description of institutions which different nations have devised ostensibly for similar purposes From their comparison the student should be better able to evaluate the efficiency of the institutions of his own country and to visualize the many roads leading to heaven or to hell, to tyranny or to an earthly paradise, open to the seekers of truth

# PART I

## *The Government of Great Britain*

By WILFRED BRENTON KERR

Chapter 1

# The Land and the People

THE BRITISH people were the first to discover how to manage a large state successfully on democratic principles For this reason their constitutional provisions and practices have attracted much attention in the last two hundred years and have been copied in many lands But the methods come from a state of mind which is prior, more important, and much more difficult to imitate The mental habits that favor democracy can work through a variety of constitutional arrangements, those that do not will spoil the most carefully planned constitution The mentality of democracy is the prime requisite

## *GEOGRAPHY AND CLIMATE*

In its development, the British people have had advantages by nature and nurture They live on a set of islands and have enjoyed a military security and a liberty to make experiments with their government from which a people under threats of invasion would have shrunk The country is small, England and Wales have about 60,000 square miles, Scotland and Ireland 30,000 each Great Britain accordingly is about 90,000 square miles in area, in contrast to the more than 3,000,000 square miles of the continental United States, and seems to the visitor the embodiment of neatness and compactness

The greatest length of England is 365 miles, the greatest breadth 280, but no part is more than seventy miles from the sea The islanders have always found it easy to go to sea and are a maritime race The merchant marine, the fisheries, the Royal Navy offer a temptation to every boy and hold much of the attention of the people This inclination to the sea had its widest scope in the period of the geographical discoveries and led eventually to the settlement of vast territories in America and the south Pacific and the occupation of others in Africa and Asia These regions are now the United States and the British Commonwealth and Empire

Great Britain has three principal physical regions, the south and east, the midlands, the north and west The southeast is a plain varied by ranges of round chalky hills, the well-known downs 500 to 600 feet high, it permits farming in the valleys and grazing on the hills and plateaus The central

plain called the Midlands is a good agricultural area and has stores of coal and iron and beds of china clay which have given the country its industrial importance The north and west are regions of mountains, moors, and lakes—the mountains of Wales, the highlands of Scotland, the moors of the Cornish peninsula, the lakes of the northwest South Wales has coal, Cornwall and Devon have tin, which attracted attention in early times, and elsewhere there are lead and copper But the ore bodies are not great, other resources are few and support only a sparse population of farmers, herdsmen, and shepherds These areas are poor for habitation but not a serious obstacle to movement except in the highlands of Scotland It is easy for the people to go about and know one another

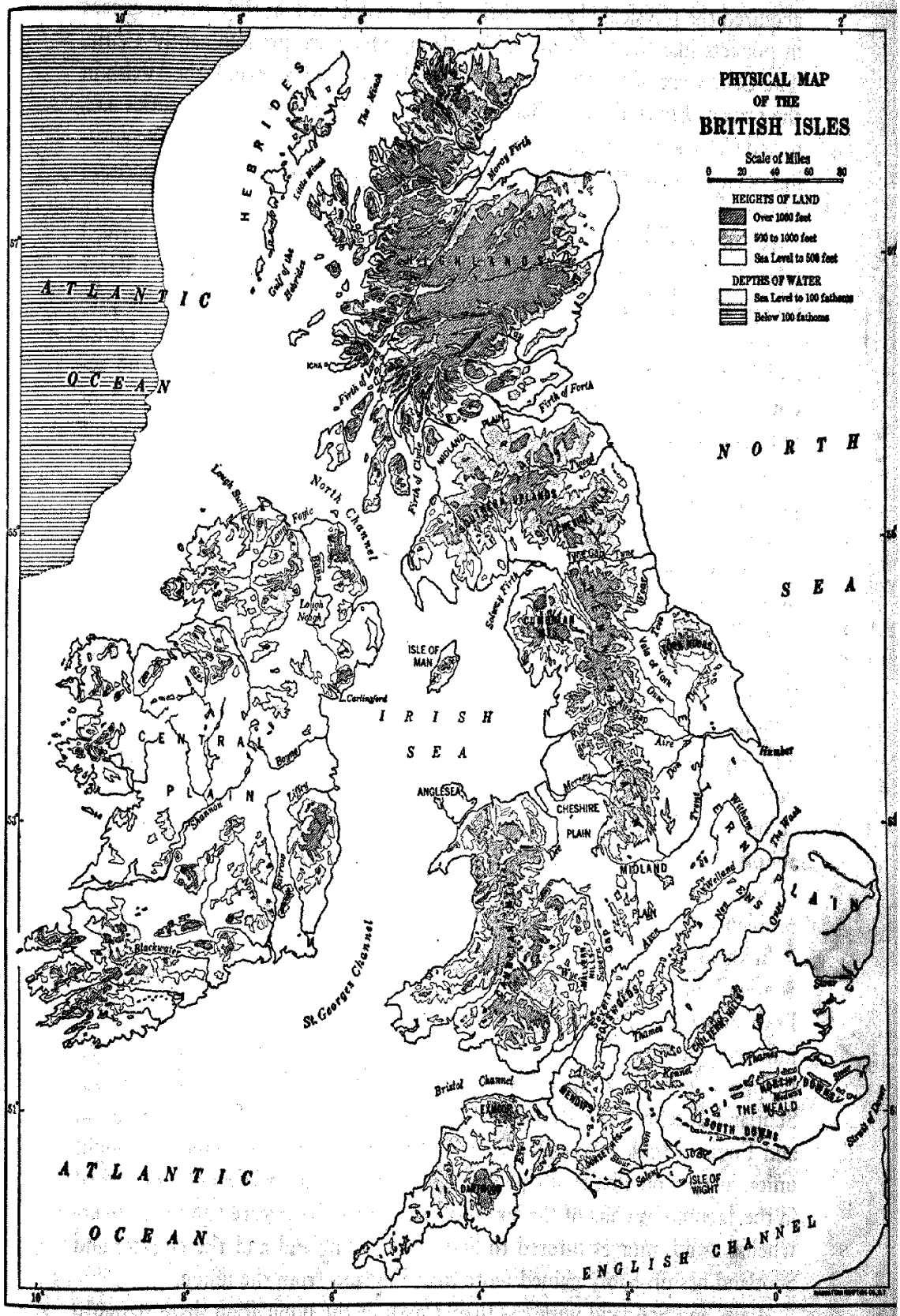
The climate has its share in the intercourse The prevailing westerly winds bring warmth and moisture to the islands, make them a good place to live, and encourage agriculture and stock raising The rain, which may seem continuous to the visitor, is only about thirty inches a year and an inconvenience but not an obstacle to movement Neither are the fogs, which, opinion to the contrary notwithstanding, are local and infrequent In the north, winter brings snow and cold but not nearly as much as in countries of the same latitude in Europe and America

The midlands and southeast have most of the good land and the ease of transport and communication, and by consequence the bulk of the population in close touch with each other Here is London, accessible to all by a few hours' ride on train, bus, motor, or plane It occupies a unique place in national life It is the center of society, politics, finance, and commerce, the headquarters of the government, the great newspapers, the national societies, the home of well-known cultural institutions like the British Museum, the Royal Academy, the Royal Society People read its newspapers, visit it often, and call it simply "town" It is what Paris is to France and what no single American city is to the United States—the focus of the nation

With all the ease of movement and the migration overseas, the people are not changeable Great numbers live in the same places as their ancestors, go to the same churches and schools, carry on the same traditions, and manage the same political institutions with what they think to be the minimum of alteration They are not readily persuaded and have a great fundamental stability They make changes slowly but digest them well and have not experienced violent fluctuations for many a year

## *RACES*

If nature has produced a compactness, nurture has given them a homogeneity of race and religion The prehistoric peoples, dark and of medium stature, were overrun by Celts from the mainland in the first millenium B C The tall and fair invaders, though only a minority, occupied the islands, mingled with the population, taught them the Celtic languages, and in the course of time




From W. E. Lunt, *History of England*, Third Edition, Harper & Brothers, 1945.

acquired the physical characteristics of the people whom they found, except in pockets like the highlands of Scotland, which are predominantly Celtic The Celts were of two sorts the Gaels in Ireland and Scotland, the Welsh in the present England Some Belgian immigrants in the first two centuries B C, mixed Celts and Germans, contributed the first Germanic element The ensuing occupation by the Romans made little difference to the racial composition of the people

When the Romans had left, the tall, fair Angles, Saxons, and Jutes arrived from Germany, proceeded to occupy the land south of the Forth River except Wales, gave the country the name England, and established the predominance of the English language and stock Later occupations by Danes and Normans merely increased the Germanic element, the French who accompanied the Normans being too few for effect on race No important immigration has occurred since the Norman Conquest, the groups have come to understand each other, mingle, and intermarry and are for practical purposes one people

To this fortunate condition there has been an exception Ireland, the home of a proud and civilized race, was invaded by Norman-English adventurers in the twelfth century and gradually subjected to rule by the crown But the several rulers never gave adequate attention to the island, made little allowance for the preferences of the people, and permitted an infinite amount of disorder The price for this neglect was an Irish nationalism, inflamed by questions of religion at the Reformation, when most of the Irish remained Roman Catholic The gap was never bridged, the friction has led to the present formal separation of southern Ireland from the rest of the islands Northeast Ireland, colonized by English and Scots at the beginning of the seventeenth century, abhors the separation and remains with the motherland

Now that southern Ireland has set up for itself, there are no important problems of race or nationality The Welsh, retaining their traditions and individuality, accepted the Reformation and a common lot with the English Scotland, in origin a kingdom of Celtic Scots and Picts, received a gift of Lothian and its Anglians from Edgar the Peaceful (959-975) and under their influence became largely Germanic and predominantly English-speaking In spite of incessant medieval warfare, Scots and English came closer together Scotland accepted the Reformation, in a different form from the English, and England took a Scottish King, and the community of interest brought union in 1707 on a basis of equality The ruffle of national feelings, expressed in the Jacobite revolts of the ensuing forty years, disappeared amid the overwhelming advantages offered to Scotsmen in England and the empire, and Scotland has probably gained more than England from the union

Wales and Scotland with less than a sixth of the population share strongly in the common British nationality In England there is little sectionalism or variation of interest despite county pride Yorkshiremen are aware of their

extraordinary gifts as a people and the extraordinary goodness of their county but consider these things an act of nature like the rainfall and no cause for political agitation The people think in national terms Public opinion crystallizes swiftly and makes itself felt in a mass

## *RELIGIONS*

Religion is no serious bar to this uniformity From the fourteenth century, the English people had a quarrel with papal claims to finance and with clerical claims to domination of intellectual life The national and anticlerical sentiment supported Henry VIII and Elizabeth in separation from Rome and the setting of the Church of England on its own feet, leaving few Roman Catholics At present there are about 2,700,000 of this denomination, largely of Irish origin and not enough to support a separate political party if they were so inclined The rest are Protestant, in Scotland Presbyterian Most Englishmen were satisfied with the Church of England, minorities had enough of the anticlerical tradition to found the various bodies of dissenters Baptists, Quakers, and Congregationalists in the seventeenth century, Methodists in the eighteenth, Salvation Army in the nineteenth In the last century a body of High Churchmen advocated a return to medieval practices and have on occasion brought the matter into politics, but may be ignored for present purposes

No doubt to this day most Englishmen are churchmen and only a minority dissenters, but the proportion cannot be measured as there are no statistics available In these categories we include persons like the Yorkshireman who, on being asked whether he was church or chapel, replied, "It's church that I stays away from" Most of the Welsh are dissenters, almost all the Scots, Presbyterians The division has some political consequences The Anglican Church is established, i e , united with the state under the King as nominal head, it takes part in state functions and has an aroma of patriotic tradition The services of church and state are intertwined, and the church shares in the greatness of the country The bishops are nominees of the Prime Minister, most of them sit in the House of Lords and share in lawmaking The creed of the church has its legal authority from Parliament and is altered only by consent of that body The church has long associations with the influential classes and churchmen tend to be Conservative in politics

By contrast, dissenters tend to be of the middle and lower classes They liked to vote Whig in the eighteenth century, Liberal in the nineteenth, Labour in the twentieth They were active among the awakening working class toward the year 1900, entered into trade-union, socialist, and cooperative movements, expressed their aims in gospel phrases, and kept out antireligion, materialism, and class war Many Anglicans have also been champions of liberal and labor reforms but never overcame the lead of their brethren from

the chapels and did not dissipate the air of nonconformity about the labor movement

All groups of churchmen have a keen eye for politics and enjoy deference from political leaders, who profess moral aims and use moral phrases, whatever their motives The people have far from lost their puritanism They have little business and few amusements on Sunday, they do not like divorce and do not want their leaders to indulge in it or in riotous living Respectability is the profession of persons in high places and the ideal required of King, Queen, and cabinet ministers Total abstainers and nonsmokers, small minorities, are not considered erratic and antisocial but receive some respect for their strict standards, and any cause may make a gain from a moral appeal

The Jewish problem hardly exists The Jews were excluded from England, 1290-1654, and returned only slowly when the way was open At present they number about 350,000 A few are wealthy and have had a share in high places, like the Rothschild and Isaacs families, the great majority live by themselves in the lower quarters of the towns Few Jewish professional men try to cater to Gentiles, few of their merchants operate large commercial establishments Jew and Gentile have lived side by side through the centuries in the British tradition of mutual tolerance, and anti-Semitism, which has never become a serious problem, would still be unknown in England save for recent events in Palestine and the agitation of Sir Oswald Mosley's following

## *CLASSES*

The one irritant in the body politic has been class The English newcomers of the fifth and sixth centuries were mostly free farmers and included a few magnates, who did little stickling for their social position The needs of defense against the Danes in the ninth and tenth centuries led the Kings to grant royal rights over large groups of the free population to men called thanes who undertook military service and became a class of landed gentry Privileged at law, they troubled little about class feeling and thought it only a joke that a cottage woman should scold a King for burning the cakes After 1066 the conquering Normans, aristocrats in their own land, took over the country and rebuilt society in the form of a pyramid At the top were 200 families of Norman magnates, below them, the gentry, Norman and English, below these, the townsmen, and at the bottom, the country people, most of whom lost their freedom and became serfs The class structure underwent changes, the serfs became free, the gentry and merchants had much to do with each other, but the division of governing and governed classes continued and prolonged the social separation For many centuries the dominant group was the gentry, including the nobility, they held economic power in their estates, social power in their education, and political power in government

The land was their stronghold, and the landlords rented their estates or part

thereof to tenant farmers on long leases These farmers employed the agricultural laborers, who were the largest and poorest section of the population Small farmers existed, chiefly in the poorer parts—the north and west—but had no great importance But in our day, rural society is changing, the large estates are disappearing under the pressure of death duties and are passing into the hands of the government or of farmer-proprietors, often former tenants In the early 1900's there were 2500 magnates of the land, now there are only 469 estates of more than a thousand acres each Public bodies hold 5,000,000 acres of forest and mine land, the National Trust, which cares for symbols of the past, keeps many old homes as museums At present, the landlords hold about two-thirds of the arable land, the single farmers the rest, and about one-sixth of the population lives on the land Landlords, farmers, and laborers are by tradition Conservative, though the last groups have wavered of late, and the fewer of them, the fewer Conservatives

The influential classes were never a caste They intermarried with merchants and professional people and took pride in their ability to assimilate able and ambitious upstarts from other classes or at least the children of such persons They were known as gentlemen and distinguished by ability to live well without manual labor or trade They took recruits, other than their children, by education at the famous "public schools" or the universities of Oxford and Cambridge The schools taught the boys loyalty, honesty, religion, and a code of conduct—e g , to play the game, to put up with discomfort for a good cause, to suppress egoism, to despise money as a principal object of life—and gave a fine literary training The outstanding schoolboy is good in his marks, in debate, and in games and can write and talk with an admirable polish He has a fund of information on politics and, with the necessary support, slips easily into the House of Commons

Upper-class society is a national institution Its members live all over the country, meet locally for hunting, yachting, and house parties, and make it a point to go to London for the social season (April to July), which brings them all together They consort in church and society with each other, marry among themselves, engage in the best professions—like the bar, the church, the armed and civil services, the press, and Parliament Keeping their hold on the land, they have taken to important business and industry in the last century They have a behavior and way of speaking that marks them off from the rest of the community They have done great things for their country and the world, have lived decorously, and have never been unpopular Naturally enough, they took it for granted that they were to lead and others were to be led

The leadership was accepted while the country remained chiefly or largely rural and local groups of all classes knew each other But the boarding schools gave a poor preparation for other social systems They took pride in the teaching of leadership but stressed command rather than persuasion and

tolerated or encouraged pride of class The boys do not know how to mix with boys of other social groups and lack adaptability They do not care to use their hands and are helpless before a flat tire, a leaky tap, or a sink full of dishes There is nothing here that cannot be changed, and efforts are being made to this end, in the last war many boys worked in factories, and at present a few titled persons take a hand with their farm work and market their own produce Yet to this day it is true that the schools have set one group of the population off from others—made them strangers to each other—and have seemed stimulators of class feeling Apart from exceptional individuals, the graduates have not known how to come down nearer to the level of those about them They might take a lesson from the Scot, Irishman, or Yorkshireman, whose adaptability wins friends and leadership in many parts of the world

While the schools encouraged social separation, the industrial revolution was bringing into existence large new classes who lived apart from the older groups industrial employers, professional and business men, white-collar workers and factory laborers Incidentally it urbanized the country and raised the population to 50,000,000 for Great Britain and northern Ireland The gentry took the industrialists, the business and professional men into partnership, which proved that of the Arab and the camel The newer elements came to dominate the union in the twentieth century in the persons of Stanley Baldwin and Neville Chamberlain and did strange things with old policies What is more important for our purposes is that the influential classes failed to win the other groups of the community, the clerical and the factory workers

The lower middle class of white-collar workers and persons with small enterprises of their own had no part in the association of their betters They considered themselves a degree above the manual laborers but were quite as anxious for the good things of life and ready to contract an alliance with them In the increasing facilities for education they found opportunities for their sons and daughters to enter the professions A bright boy or girl living in Bristol or Birmingham can go through the elementary and secondary council schools and the local university as easily as one living in Buffalo or Detroit, and in the last fifty years these young persons have been pressing into the occupations of the wealthy and accomplishing a silent social revolution, as has well been said This is indeed the theme of many of these pages Sensitive about their origin and schooling, these young people of the clerical and laboring groups do not associate readily with their contemporaries of the upper class They tend to vote Labour and lead it, which is part of the story of the election of 1945

Nothing is immutable about this condition, sensitiveness will vanish, council education will improve, and sometime all sections will have a common level of culture But the aloofness indicates a failure in the leadership of the

influential classes, this thing ought not to have been It still takes an effort for Englishmen of the various social groups to consort with each on terms of good fellowship Discussions wander from the merits of proposals to the question of which class benefits most and are befogged with irrelevant considerations Class remains the rock of the political sea

The second failure of the influential classes is with the great group of industrial laborers The country now has more than 700 persons to the square mile and is the most densely populated of the great powers Eighty percent of the people of England and Wales and 70 percent of the Scots are urban Of the 20,000,000 employed persons in 1948, 11,000,000 were engaged in occupations like manufacture, mining and quarrying, transport, building and engineering, and industrial civil service, and the great majority of them would be black-collar workers The land and fisheries accounted for over 1,000,000, other occupations the rest, most of them white-collar Exact statistics are not to be had, but it is certain that the black-collar group predominates Most of them are in large enterprises and organize themselves easily as trade unionists, cooperators, members of the Labour party [1]

## *TRADE UNIONS*

The basic unit of the trade union is the branch, which elects a secretary and committees It gets funds from an entrance fee, and perhaps investments, weekly contributions, and gives a rule book and a card It dispenses benefits few or many according to its resources, for unemployment, sickness and accidents, funerals, superannuation, etc The branches have district and national associations, the latter of which stand for the union in the eyes of the world The union, so formed, has a fixed headquarters, a paid general secretary, office help, and perhaps organizers The secretary negotiates with employers, tries to settle internal disputes, represents the society to the public, may edit the journal He can take time off when he wishes and is available as a justice of the peace or member of Parliament

In every industrial center there is a trades council representing the branches of the area which care to send delegates Before the war, about 500 of these bodies existed Some of them acted also as the local Labour parties and were called trades and labor councils A few of the trades councils are Conservative and affiliate themselves with that party

Some unions cover a craft or a group of crafts in a number of industries, often called federations, some cover all the working people in an industry or group of industries by either federation or amalgamation In 1946 there were 753 registered trade unions, but 84 percent of the members were in forty-eight large unions The total membership was 8,714,000, about half the population on wages or low salaries [2] Domestics, clerks and typists, dis-

[1] *Postwar Britain, 1948-49*, Central Office of Information (London, 1949), p 83

tributive workers, unskilled and casual laborers, and women workers are hard to organize Professional bodies like the National Union of Teachers shy away from organized labor The best-organized groups are the miners, railwaymen, iron and steel workers, printers, cotton workers, boot and shoe workers, shipbuilding workers

All the important unions and many others send delegates to the Trades Union Congress, which meets annually in September and elects a general council of thirty-four members For the election, the unions are divided into eighteen groups, some with one, some with two seats on the council To these, two women are added to make the total The general council speaks for organized labor and associates itself with the Labour party It has a large staff and departments for education, research, legislation, etc , and is a power in industry and in the land [3]

## *COOPERATIVES*

The consumers' cooperatives of Great Britain are a source of pride to the working class and lower middle class and of admiration to many outsiders They are associations of consumers to sell household goods to themselves at market rates and to distribute profits in the form of interest and dividends, the latter in proportion to purchases The membership share is a pound, but only a shilling need be paid down, and the rest can accumulate from the dividends No one may vote or draw interest or dividends until the pound is paid up No one may hold over £200 of shares, each holder gets interest at a common rate of 3½ percent and has only one vote The members hold quarterly meetings for business reports, annual meetings to elect an executive and other committees Each cooperative has a secretary and a manager, both on salary, and perhaps department managers, and employees who are usually sons and daughters of members The employees may be members and may even be elected to the committee that hires them This does not matter, as the real boss is the membership meeting, which will watch them closely To train the employees and fit them for promotion there are cooperative schools and a college

The unit may have a simple shop stocked with groceries or a central department store with branches, restaurants, and laundries In 1945 there were 1070 retail cooperatives with 9,500,000 members and 323,000 employees They form district societies and a cooperative wholesale society, known as C W S , with headquarters in Manchester There is a Scottish C W S and a joint organization for limited purposes The C W S operates many factories

[2] *Ibid*, p 92

[3] In 1946-47, one union had three members on the council "P E P" *British Trade Unionism* (London, 1948), p 101 Statistics of January 1949 showed 9,301,000 trade unionists in 706 registered unions

of consumer goods, has properties far and wide—like tea lands in Ceylon—and manages a banking department[4]

The C W S is strictly for business and has allied organizations for other activities Local and national societies have formed a cooperative union to make policy It holds a cooperative congress of about a thousand delegates every year in Whitweek, elects a central board and an executive committee The board and committee represent the movement to the public and have a care for legislation About politics, the cooperators are in two minds, their industrial workers want to help the Labour party, their white-collar members are divided among all three parties The Laborites have formed a cooperative party which is supported by the majority of societies and goes hand in hand with the Labour party It publishes a weekly, *Reynolds News*

The normal active worker is a trade unionist, a cooperator, and a member of the Labour party and thinks the unorganized individual not quite right in his head He spends much time on these activities and learns a good deal about the conduct of public business The employers did not ignore the lesson, they have formed the Federation of British Industries or F B I to look after themselves, with about 6000 members at present

It is hard to avoid the conclusion that the influential classes missed an opportunity with the industrial workers as with the lower middle class They gave factory acts and the franchise but did not take an intimate interest in the worker's problems of employment, food, and housing, considering his occasional plight in these respects as an act of economic nature They left the socialists to make this field their own and to win over large sections of the working class, and only in the twentieth century did the Liberal party realize something of the need and act accordingly There was nothing inevitable about the alliance of socialists and workers, the influential classes might have competed with the socialists in offering betterment, using the advantage of their economic and legislative power Efforts to this end in the last fifty years have been too few for considerable effect and have not regained the lost ground, while economic resources for the task have dwindled

For a hundred years the British people had the world's leading position as manufacturers, merchants, carriers, bankers, investors, and as customers for food and raw materials The excess of imports over exports was covered by income from financial services to the world, by investments and loans and the entertainment of visitors Toward the end of the nineteenth century, other lands with greater natural resources were industrialized The United States and Germany surpassed Great Britain in total production by 1900, and the United States has maintained its lead The mere matter of relative position on a list was of no practical importance and left Great Britain with few worries World trade was expanding, with larger shares for everybody

[4] Margaret Digby, *The World Co-operative Movement* (London, 1948), chap 3

But in the period between the wars this arrangement collapsed Many countries, formerly customers, erected tariffs, built their own industry, and began to compete with British goods in narrowing markets The world economy was constricted, to Britain's disadvantage Technological change in some cases worked the same way, oil took the place of coal, which had been indispensable for transportation British coal, steel, and cotton fell behind in their contribution to exports, coal dropped from 73,000,000 tons of exports in 1913 to 40,000,000 in 1937 In the new conditions, industrial leadership of important sections of the economy seemed helpless It bowed its head to the storm and did not seek strenuously enough for new techniques and new organization to reduce costs Some industries formed cartels or monopolies and gained a temporary shelter at the cost of discrediting the whole system Large areas of British industry fell behind that of Germans and Americans in efficiency and did not ask why From these conditions came the great depression, which hung like a cloud over the country from 1921 to 1938 and kept millions unemployed for years at a time A feeling of hopelessness was general, and the period was a nightmare to many an industrial worker

The standard of living in Great Britain is higher than on the Continent but lower than in the United States In the 1930's, 88 percent of the population had incomes of less than £250 a year, in the United States about half of the people were in similar circumstances Two-thirds of the Britons who died left less than £100 of property With all this, the worker had a higher standard of living than his father's and much higher than his grandfather's Yet the more he had, the more he wanted, security of employment, support against infirmity, a greater share in the good things multiplied by invention every year Only the Labour party claimed a solution for his problems, and to that party he turned In the twenty-one years between the wars, the Labour party grew to equality with the Conservatives and looked confidently to further gains as the industrial population rose Party and class came to be much the same thing and class dominated the political field

Apart from it, the British people are models of democratic habits The first article of their theory is to settle policies by discussion and compromise Discussion needs to be free, open to all, and conducted dispassionately, it requires a great array of liberties and a restraint on expression, all directed to the one end the management of public business An opinion is a means to this end, not an end in itself To compromise it is not a betrayal of one's soul or a confession of inherent weakness of judgment but a way of getting on with the work, unless disaster is imminent, which is a rare occurrence The keynotes are moderation and openness of mind Even the criminals are mild of manner in contrast to the ferocious gangsters of other countries

By and large the people are honest, consider a man's word as good as his bond, like fair play, and are bewildered by its opposite They believe in the adulthood of man and hold that a normal man or woman has as much

common sense as any other No person and no group is infallible, all admit the possibility of error on their part and of some truth on the part of persons who differ from them Liberty brings diversities of view, these come from variations of light and not of motive and are to be resolved by discussion "Come, let us reason together" is their precept, and they provide an administration to act and an opposition to criticize it They hear but may not heed all opinions and are confident that most people will recognize fools and knaves most of the time They have absorbed the golden rule of politics, that no one and no group may do to another what he or it would resent if done to themselves in a turn of the political wheel Persons who think they have the whole truth and want to cram it down other people's throats are social outcasts, Fascists and Communists, with every opportunity for propaganda, have made little headway The British people claim no monopoly of these political virtues and admit a painful process of education in them, extending over centuries

## *POLITICAL MENTALITY*

They regard politics as a sport and like it for its own sake, quite apart from specific changes for which it may be useful When changes come accordingly, they do not lose interest but continue the pursuit of politics for the pleasure of the occupation So deep is this instinct that many people are anxious to hold public office to their personal inconvenience and loss of time, energy, and money Innumerable councilors, mayors, committeemen, chairmen, jurors do their best without thought of pay "Graft" is negligible in amount and less than in any other democratic country That England expects every man to do his duty applies to politics as well as to naval encounters Young men and women join political associations and look forward to some unpaid local office as a matter of course, not thinking for a moment of leaving it to professionals Many able men choose politics as a career, and the politician is a subject for jest but never for the contempt and detestation evident in some other lands The borough councilor, the mayor, the member of Parliament, the justice of the peace are honored and respected Persons who have not had a hand in politics feel that they have missed something Dick Whittington is the townsman's ideal, many a successful businessman is not satisfied until he achieves the gold chain and robe of the mayoralty of his town

There are sectors of indifference, chiefly about the lower units of administration, but they merely throw the rule of political interest into relief Eighty percent of the population turn out to vote, no matter how trivial the issue The people enjoy a conflict of views, they like politics as a topic of conversation and do not hesitate to press an argument lest they hurt the feelings of one who is at a loss They often attend meetings of other parties than their own and match wits with their opponents Politics is not only a sport but a fine art

Their political habits enable the people to dispense with a document called a constitution They have a body of rules for the structure and functions of their political institutions and a grasp of the principles governing the working of these The rules and principles have never been codified and enacted as a piece and in this sense the constitution is unwritten But certain parts of it are contained in acts of Parliament which would not be changed without profound deliberation and a deep sense of necessity, like habeas corpus (1679) and the Bill of Rights (1689) To these may be added judicial decisions of constitutional importance like the case of Edward Bushell (1670) which freed juries from prosecution for verdicts against the evidence The unwritten parts of the constitution are usages or conventions which cover the most important parts of the constitutional system They are well understood and obeyed but are less definite than written clauses and cannot be enforced through the courts.

One of these is the supremacy of Parliament, which may make a law annulling all common law and previous legislation on a topic or revising them to require new judicial decisions In the absence of a supreme court, Parliament can legally do anything, and Parliament alone has this power But unwritten custom dictates that the full power may be used only in great emergencies, as when Parliaments prolonged their own lives in both the wars Such a procedure would not be tolerated by public opinion in time of peace and would be entertained by few members of Parliament The usage is that of republican Rome, which gave wide vetoes to its magistrates on the understanding of employment only on rare occasions Parliament alone may levy taxes and pass acts of grace or indemnity to forgive penalties for past offenses

A second usage is the rule of law, there is only one law for all There is no arbitrary authority and no system of one law for officials and another for the common man There are no extraordinary tribunals to try offenses against the state, all officials have powers defined by law and may be taken to court for abuses Under this principle, the power of Parliament will be used only in the way intended

A third usage is the union of legislature and executive in the cabinet This group is in the legislature and leads it, but must explain itself to that body and keep a majority in it The majority depend on getting most of the seats at the next election and are anxious to please the public The cabinet accordingly have eye and ear on the public, to which they will answer in the course of time They need not bow before gusts of popular opinion which may be ill informed, they can plan long-term policies, do something unpopular at the moment but beneficial in the long run, and stand on their record when the dust has settled

A fourth usage is in the independence of the courts The highest court of appeal is nominally one branch of the legislature, the House of Lords, but actually a group of jurist peers whose functions have nothing to do with

legislation Parliament does not attempt to pack the bench It may remove a judge of the high courts but has almost never done so, knowing that the power is for dire extremity only We may sum it up as the maximum power and the minimum exercise Behind everything is an attentive public opinion which is itself the supreme court of the constitution as well as the supreme council of the realm

No complete list of civil liberties is to be found in a single document, although a few are in such enactments as the Petition of Right (1628) and the Bill of Rights (1689) The individual is protected by the common law, he may not be punished unless found guilty of violating a specific law in a trial before a court with impartial procedure One may say or write as he pleases unless it is slander, libel, sedition, obscenity, blasphemy—the last of which is cause for prosecution in only the rarest of cases Public meetings may be disbanded only if riot threatens or breaks out Habeas corpus, trial by jury, questions in Parliament will safeguard all who are in trouble through no fault of their own The only difficulty arises from street meetings and processions which provoke antagonism like fascist gatherings for denunciation of Jews in Jewish quarters Here protection by police may prove expensive and a strain on municipal finance, and for this practical reason a limit is placed on such assemblies

The first defense of liberty is in tradition and public sentiment rather than in a document This may seem vague, but in fact liberty is secure as long as mental habits remain what they are If they were to change and the country became fascist or communist, no document would be of value to help the individual In practice there is as much security for liberty under the unwritten British constitution as under any carefully defined bill of rights

## Chapter 2

# *Parties and Public Life*

### *ORIGIN OF PARTIES*

ENGLAND has had a long schooling in self-government That rulers and ruled had duties to each other was implicit in the feudal contract and solemnly stated in Magna Charta No matter how he might twist and evade, the King found sooner or later that he was under the law His council, broadened into a Parliament by the presence of knights of the shire and burgesses of the town, kept him within bounds by granting or withholding money, took advantage of his necessities, and bought constitutional rights by installments But if he were to lose power, who was to gain it? Not the feudal magnates, selfish and quarrelsome, who merely created anarchy The gentry, trained for public affairs as sheriffs, coroners, guardians and justices of the peace, members of the Commons, carefully picked up what the King dropped and emerged as the dominant influence in society and politics with the townsmen as junior partners Normally they were supporters, not opponents of the King, used infinite forbearance with him when he went wrong, and made petitions and protests that are models of patient pressure No other class could have played the role they did—certainly not the laborers of country and town, who would have collapsed before the royal power This class, compact, coherent, prudent, honorable, wielded the power they had subtracted from the King in what they conceived to be the public interest, and working closely with the rulers, they carried the country through the great changes of the Tudor period Immensely practical, they rarely raised points of theory, public-spirited, they rarely sought personal advantage They created the parliamentary tradition of free speech, fair play, establishment of policy by discussion—not in a conscious effort to widen liberty but as the best means of settling policy Much attention has been paid to landmarks in constitutional development, not enough to the leadership and policies of the class that could absorb the King's power without danger of anarchy

Over matters of religion the gentry fell out with the Stuarts, lost control for a moment in the Puritan period, recovered it at the Restoration, and dealt neatly with James II in his turn in 1688 Masters of legislation, finance, religion,

they began to diminish the King's executive power and in the end reduced him to a figurehead through the cabinet system In these conditions, policy could no longer be settled by discussion between King and Commons, but discussion there must be To this end, the gentry devised the two-party system—had indeed done it as if in anticipation of the change

The parties have a long history The Tories and Whigs appeared in Restoration times, 1660–1688, had the eighteenth century to themselves, and became Conservatives and Liberals after the first Reform Bill, 1832 The Tory party stood for the prestige of the King and of the Church of England, for the ascendancy of the landed proprietors and the maintenance of the empire, and the Conservatives inherited the tradition in less rigid form The Whigs, giving some value to it, held out a hand to other churches and classes and to the colonial populations and magnified Parliament The Liberals, succeeding them, believed in liberty, equality, and the capacity of everyone for a civilized life They led in extension of the franchise, removal of disabilities on the score of religion, and provision of education to workers at home and of self-government to colonists abroad All these the Conservatives accepted, occasionally anticipating the Liberals, and through both parties liberal ideas had wide acceptance

Until 1832 there was little party organization After the extension of the franchise in that year, Conservatives and Liberals formed local groups to conduct propaganda, organize election campaigns, select candidates, and keep in touch with parliamentary leaders in London The local Conservative groups federated after 1867 and formed a national union Benjamin Disraeli, leader of the Conservative opposition in 1870, decided to delegate party work and set up a central office, with funds and a party manager under his control, and shared rooms with the national union

## *LIBERALS*

At the same time, Joseph Chamberlain drew the ward groups of Liberals in Birmingham into a central body with an assembly and executive, which took charge of local campaigns and selected the Liberal candidate Following the lead, the Liberals of the country built the National Liberal Federation on these local associations This body in its annual meeting decided policy for the party, e g , the well-known Newcastle program of 1891, while the party was in opposition In power, a Liberal Prime Minister considered himself reasonably free, and H H Asquith made his own program For some time the executive of the National Federation sat with representatives of the parliamentary party and some others in an administrative committee which appointed the agents and managers of the party machine The plan was said to work badly, and as the party declined, the federation asserted direct control of the whole party organization The Liberals in the Commons elect their leader

yearly, not changing him lightly, and the party has published its accounts since 1925

When political equality had been attained, the Liberal party of the twentieth century studied the evils of industrial society and carried out a program of aid to the lower-income groups old-age pensions, meals for school children, the setting of wages in certain trades, health and unemployment insurance, payment for members of Parliament The Conservatives found these acceptable but quarreled with the Liberals over aid to denominational instruction in schools and home rule for Ireland, which was bound up with curtailment of the powers of the House of Lords, and were hotly at it until the outbreak of war in 1914 The Liberals all the time carried along a left wing of cranks, atheists, republicans, pacifists, the Conservatives had a more respectable burden on their right wing in the champions of causes long and hopelessly lost

## *SOCIALISTS*

In the meantime, the ills of the factory system had provoked several groups of socialists into being and activity The Social Democratic Federation, founded by H M Hyndman, considered themselves the heirs of Karl Marx and dabbled in thoughts of class war and revolution The Independent Labour party, among whose fathers were Keir Hardie and James Ramsay MacDonald, shunned these ideas, appealed to the working class in the nonconformist tradition, and sought seats in Parliament and the local councils Both of these bodies had a strong odor of internationalism and tended to decry patriotism, without altogether meaning what they said The Fabian Society was a group of socialist intellectuals founded in 1884 and containing such well-known members as George Bernard Shaw and Sidney and Beatrice Webb They were patriots, condemned the class war, and set themselves to show their countrymen the distress of the lowest social groups They did much valuable research and publication on diet, housing, and health, used facts and figures, and appealed to reason They favored measures of social security and gradual extension of public ownership as a means of raising the standard of living They made a great impression on the labor movement and still dominate its thought, and they won groups of professional men to it The society numbers only a few thousands but is the elite of the movement and includes Prime Minister Attlee and most of the present Labour M P 's.

The three societies had ideas and energy but lacked money In 1900 they approached the Trades Union Congress, which had this necessary, and formed an organization which became the Labour party in 1905 and elected 29 candidates to Parliament The unions brought members and funds, the socialists supplied a missionary fervor and a great amount of voluntary service and spoke with reverence of "the cause," or said simply, "We believe in the Labour party" At first, the appeal was to the worker or to others in his in-

terest The black-collar groups were in the majority and needed only to be won in mass, for which reason a class appeal seemed in order Only gradually came the realization that many workingmen persisted in voting Liberal or Conservative and that appeal must be made to other classes on the ground of their interest if a majority was ever to be attained

The workingman tried to hold his new and old friends together in a Liberal-Labour alliance (1905–1914) In the war of 1914–1918, all parties joined in a coalition except a few extreme socialists like MacDonald At the end, the Labour party went its own way and broadened itself out into a national party by forming local associations and admitting individual members beside the societies and trade unions The Liberals proceeded to commit suicide by steps They were two groups, half of their members of Parliament, led by Prime Minister David Lloyd George, continued the coalition with the Conservatives for the election of 1918 and the period of making peace while the others under former Prime Minister Herbert Henry Asquith went into the wilderness Had the party kept its union, identity, and separateness and continued to hold hands with labor, it might be living yet But the Asquith group was a fragment, the Lloyd George group was identified with the Conservatives in the popular mind and yet was ignominiously thrown out of the coalition by its allies in 1922 The parts managed to reunite, but never could find standing room again In the economic troubles of the 1920's and 1930's the Conservatives provided the defense of capitalism, the Laborites professed a remedy in socialism The Liberal party had no program and wasted away It still has a good supply of intellect, in 1945 it had 2,250,000 votes, put up 306 candidates, and elected only eleven of them, seven of whom come from Wales Barring an unforeseeable turn of events, the party is done for, and the two-party system is reestablished with Laborites and Conservatives [1]

Street socialists had long proclaimed that capitalism was the root of practically every evil that afflicted mankind It gave the laborer bad housing and food, poor education and medical attention, long periods of unemployment, it refused him a chance to use his talents, denied him a share in the new conveniences of life, had him down and kept him down while it showered good things on the upper class It went to remote parts of the world, plundered the natives, and took to war over the loot, capitalism and imperialism were

[1] The Liberal party in the year 1949 is led by Clement Davies, born 1885 They decided to meet at Hastings, Sussex, in May in view of the forthcoming election and drew a comment in the *Evening News* that among signs of spring, the Liberals twitched twice and held a conference The president of the association, Sir Andrew McFadyean, said there was no prospect of a common cause with the Conservatives, and the hope was dim but general that the British voters would return to the party which had led the country with such distinction until 1914 The conference adopted a program calling for measures against monopolies, reduction of food subsidies, scrutiny of government expenditures, and co-ownership of employers and employees in industry—which may cause no great stir in political waters

the monster twins of civilization Knowing little of industry, these socialists were sure that it had solved problems of production and could turn out a Noah's flood of good things The only obstacle is the stopper called profit motive, take it out and behold abundance The word *profit* was to the socialist what the red rag is to the bull and set him into a fury Profit oppressed the laborer in the interest of the favored few—managers, directors, stockholders—who flaunted their wealth and ease at him as he lay in the dust Desk socialists thought these statements extreme but in large part correct "It is obvious to me," said a speaker at the Scarborough conference of 1948, "that people in white-collar jobs in the past have had too much as opposed to the people in the basic, hard, dirty jobs We should attempt to give the workers a much bigger share of the national cake "[2] The larger share was taken to be economic security, diet, housing, health, education, a higher standard of life The means to it were nationalizations, planning, better distribution of good things, as the several elements of the party understood them

## *LABOUR PARTY*

The organization of the Labour party is unusually complicated It has four sorts of adherent groups (1) The socialist and semisocialist societies are the Fabians, the I L P, and sympathetic groups of lawyers, doctors, teachers, who consider that they supply the intellect of the party (2) The eighty or so trade unions affiliated with the party provide nearly four-fifths of the membership and the money They have political funds for the purpose, from fees paid by members Any member may contract out from the political levy, i e, sign a paper to indicate his unwillingness to pay, but few care to distinguish themselves so from their union comrades This political levy has been a bone of contention between Liberals and Conservatives on the one hand and Labour on the other since 1913, the older parties contend that the trade unionist who wants to contribute should sign up to that effect, letting the inert mass escape The latest turn of the wheel being in favor of Labour, the party has repealed Conservative legislation on the subject and arranged the levy to suit itself The unions support the central party from this fund and often have enough to sponsor candidates in the constituencies By a party ruling, the union may not supply more than 80 percent of a candidate's expenses but may use its clerical staff and its car for party work The supporting union chooses a safe seat and often deposits a worn-out official in it as a method of super annuation In a defeat, the Labour party in Parliament will find itself loaded with such material, in a victory, it will have a supply of younger and more active men and women In 1945 the unions supported 125 candidates and elected 120 of them, out of a party total of 393 (3) The cooperatives, for long half-hearted allies and still dubious, include many white-collar folk They have

[2] *Report of the 47th Annual Conference of the Labour Party, Scarborough, 1948* (London, 1948), p 145 (Hereafter called *47th Labour Report*)

been running joint candidates with Labour in a few constituencies since 1927, in 1945 they elected twenty-four of these In 1946 the cooperatives took seats on the National Council of Labor and set up joint committees with the national executive committee of the Labour party (4) The constituency or local Labour parties are open to all Anyone may join by professing the faith and paying the fee (one shilling a year minimum) Many members are already in a socialist society or trade union and have double or triple membership, they are likely to be the militants who do the bulk of the work

In the counties, the town Labour party is the unit and with its neighbors may form a county or area federation In the cities, the ward meeting is the elementary group It elects a chairman, secretary, etc , and sends delegates to the general committee of the party in the constituency, to meet representatives of the affiliated trade unions and socialist societies The general committee in turn elects an executive and officers and is commonly taken to be the constituency Labour party Where a borough is divided, the constituency parties may form coordinating groups called central Labour parties Above these are nine regional councils, for the east, the north, Yorkshire, Lancashire and Cheshire, East Midlands, West Midlands, south, Wales, Scotland In 1948 there were twenty-five county federations, one of which covered two counties (Cumberland and Westmoreland) Women are enrolled in the local groups and in women's sections, where they display ingenuity in raising funds

The constituency Labour party does most of the work It discusses policy, manages local affairs, elects and rather closely instructs delegates to the national conference For elections it chooses the candidate with the approval of headquarters, manages the campaign with the help or direction of the agent, and is responsible for the money It keeps the subordinate organizations in order the social clubs, the women's sections, the youth groups (age fifteen to twenty-five) The Youth League has been a problem, before the war it tended to travel with Communists and was disbanded Since the war it has revived, cured of its wayward ways, and in 1948 had about 45,000 members The Labour party as a whole reported 5,500,000 members in 1949

The secretary of the constituency party is a key man, he attends to routine business, conducts the correspondence, sees everyone, knows private ambitions, watches all activities, and has a better knowledge of party affairs than anyone else[8] Often he is appointed agent, as such he must plan campaigns, keep within the law, and handle expenditures Eighty-five professional agents attended the conference of 1948, representing only a small proportion of the 625 constituencies in view for the election of 1950 Headquarters is anxious to place a full-time agent in every constituency and helps with the expense

[8] The socialist societies attending the conference of 1948 were the Fabian Society, Haldane Society (lawyers), the Jewish Socialist Labour party, the National Association of Labour Teachers, the Socialist Medical Association

It set the salary in 1948 at £400 a year with an annual increase of £25 to a maximum of £475 and possibilities beyond, and it has schools to train the recipients

The party is in a tug of war between the socialists, eager for public ownership, economic equality, and many accruing good things if their view is right, and the trade unionists, not at all sure that the ownership and equality will lead to the good things Many a unionist wants less work, more wages, and social security only, he has a house, bonds, savings in the bank, electric appliances, and an aspiration toward a motorcar He is a patriot, proud of the King, the royal family, and the empire He is at heart a Liberal or even a Conservative, but, deferring to the glibness of the intellectuals, accepts socialist policies in theory and balks at some of them in practice He and his like supply the money and have a veto on the program, and usually they find a compromise with the socialists on immediate needs From time to time a few trade unionists secede from the party in fright of its socialism and join the small group of Conservative trade unionists who are without political importance to date

Among the socialists there are groups with the opposite fear—that the pace is not fast enough They want Utopia in a hurry, are internationalists rather than patriots, and see good in the Soviet Union They do not join the Communist party, disliking its discipline and its subordination to Moscow, and they remain poised, looking this way and that, unhappy at heart and querulous in their speeches They follow the Moscow party line in its convolutions and are fellow travelers, consciously or not Some of them are merely passing through a phase and will settle down and in the long run serve the party well, which has patience with them in this hope

The I L P is the home of pacifists, cranks, visionaries, devotees of the unreal In 1948 it voted to abandon politics, in 1949 it reversed its position and passed resolutions against the draft and the Labour party's supposedly anti-socialist foreign policy It has three members in the present Parliament The Labour party has other trouble over northern Ireland, its Roman Catholic members and their colleagues who have hazy mental processes and think any weakening of the empire a good thing have made efforts to force the Ulsterites into union with the southern Irish, and have had several collisions with the party high command over the matter

In its central organization the Labour party has three bodies the national party conference, the parliamentary party (the Labour M P 's), and the National Council of Labor The national conference meets every year at Whitsuntide and may meet at other times if called, and it elects an executive committee and an arrangements committee for the next meeting, consisting of five delegates and including a member of the head office staff The conference is composed of delegates from affiliated bodies and from a number of groups whose members are ex officio of the conference but have no votes as

such The affiliated bodies are the trade unions, the cooperatives, the socialist societies and professional organizations, the constituency parties, the central Labour parties, and the federations The ex officio groups are the national executive committee, the Labour M P 's and peers, the League of Youth, which may send its chairman and one other, and the secretary of the party, who is a group in himself

The affiliated bodies elect one delegate per thousand members or fraction thereof, save that a constituency party over 2500 strong may send a woman to represent the excess A central Labour party, a trades council acting as such, and a federation may send a delegate each The vote is one for a thousand members or fraction thereof On May 17, 1948, at Scarborough the representation was

| | Number | Delegates | Votes |
|---|---|---|---|
| Trade unions | 64 | 501 | 4,407,000 |
| Socialist societies | 5 | 5 | 11,000 |
| Cooperative societies | 1 | 6 | 37,000 |
| Labour parties, local and central | 575 | 584 | 971,000 |
| Federations | 18 | 18 | 18,000 |
| | 663 | 1,114 | 5,444,000 |
| Ex officio members | | 175 | |
| | | 1,289 | |

Eighty-five agents, not delegates, attended [4]

The delegates are reliable persons in good standing and may not belong to groups on a black list connected with Communists or Fascists The names and addresses of delegates are sent in sufficient time to the party secretary, who checks their qualifications The place of meeting is chosen by the national executive committee, the arrangements are in the hands of the committee for that purpose

Each affiliated organization may submit one resolution for discussion, to be printed in a first agenda, and after a look at this may submit an amendment to any resolution These amendments, and nominations for elective offices, are sent in well ahead of the time for the conference, which is likely to have few surprises The consolidated agenda is printed for the delegates The conference considers no business not on the agenda, unless the executive or arrangements committee so recommends, and entertains no resolution on any point of policy declared within three years, unless the executive consents Everything is under control

The business is the election of a chairman, civic and other welcomes, the chairman's address, the report of the arrangements committee, the report of the national executive committee, and the resolutions The reports take most of the time, generally three days out of the five at the disposal of the confer-

[4] *47th Labour Report*, p 105

ence, and give rise to excellent discussions The resolutions take what time is left and may come short Perhaps three or four hundred have been submitted and amendments added, but only eight or ten are likely to reach the floor Except for the members of the national executive, speakers are rigidly limited movers of resolutions to ten minutes, seconders and others to five minutes each Some resolutions are out of date at the opening of the conference, some fail under the three-years' rule, some are withdrawn or referred to the executive There is much criticism of the rationing of time and resolutions but this cannot be avoided Any important issue is aired, and the leaders must defend their policies, which is good for everybody concerned

Few of the resolutions come from the trade unions and these will probably pass Few come from the socialist societies—only five in number at the 1948 conference—and these will get some attention The bulk of the resolutions come from the constituency parties and represent a great variety of good and bad sense They are considered in the secretary's office and those few which are of wide interest and importance are selected for presentation on the floor The sponsors are often militant socialists and the resolutions are extreme But the voting is done mainly by the unions, five or six of whom control more than half the votes (mine workers, transport and general workers, railwaymen, general and municipal workers, united textile workers) The union votes as a unit, ignoring dissentient minorities within itself, gives the national executive great blocks of votes, and smothers the socialists Socialism, having created the Labour party to exorcise the specter of wealth, finds itself pursued even to its innermost sanctum by the apparition, it begins a debate with fireworks and accepts a tea party at the end

Between meetings of the conference, the national executive committee manages party affairs and the central office in Transport House, Smith Square, London S W 1 In 1948–1949 it contained twenty-six persons—twelve from the trade unions, one from the societies, eight from the local parties, and five women The chairman, called chairman of the Labour party, was the Right Honorable James Griffiths, M P The leader of the parliamentary party, Prime Minister Clement Attlee, is an ex officio member The trade unions, the societies, the parties each choose their representatives, the conference as a whole chooses the women Most members are reelected from year to year, acquire experience and prestige, and, with support of the unions, sway the conference On the other hand, the chairman has been changed frequently

The national executive committee is in charge of the party as a whole It makes the final interpretation of the party constitution, standing rules, and orders and may expel individuals and organizations These may appeal to the party conference but will get little good from it, as the executive committee which has ratified the expulsion dominates the conference It governs relations with the trade unions, the cooperatives, the dominion and foreign socialist societies It endorses party candidates and decides disputes between affiliated

organizations, and for all this business, it meets about once a month It recommends the secretary to the conference for election, which is done He must give full time to the duty and may not be a member of Parliament The present occupant of the post is Morgan Phillips

The secretary manages the central office in Transport House He and his staff do the secretarial work of conference and some committees and direct research, information, and publications Chief of the publications is the *Daily Herald*, owned by the Trades Union Congress and Odham's Press, Ltd The Odhams have the business policy and the profits, the T U C has the political and industrial policies and gives them to the national executive committee There is a women's department, an international department, a research department, a press and publicity department All this takes money, the chief source is affiliation fees and other charges on member groups, of which the trade unions pay by far the most The party publishes its accounts, for the year 1947 it showed over £315,180 on both sides of the ledger [5]

Under the secretary is the national agent in charge of the election machinery He has organizers in the regions, watches local parties, advises and warns them He keeps a list of unplaced candidates for Parliament He or one of his staff attends the meetings of the local selection committees if possible and if there is no outstanding candidate may recommend someone from his list In any case, party headquarters reserves the right to pass on the candidate and insists that he be a dues-paying member of the party and of a trade union if he is eligible A recent ruling requires at least twelve months' membership unless the national executive committee dispenses with it

The central office watches erring members and organizations, reprimands them, and may mark them for expulsion if they manifest persistent communism or fascism It allows criticism within the organization, not a campaign outside it, and does not flourish the big stick Under the heading of propaganda it manages public speaking, literature, summer schools, and films, in charge of a film association

The parliamentary party, the M P 's, elect their leader, a deputy, committees, whips, etc While in opposition, they held meetings once a week, discussed policy, and came to resolutions which were binding on the leaders They arranged the calling of divisions and the content of private members' bills and motions, all for the good of the party, and of course washed the party linen privately The leader was far from master in his house, he had to consult the party meeting and the National Council of Labor before he could make pronouncements of policy Since the party has come to power, control has not been so tight The meeting cannot hamper the cabinet and Prime Minister by requiring prior approval of policies on the many and difficult issues to be met It elects a chairman and a vice-chairman, who are not ministers, and a committee to keep in touch with the cabinet It holds fortnightly

[5] *Ibid*, pp 44-45

meetings except in recess and hears the ministers, who attend frequently and give their views on policies, and it forms party groups to study the work of particular departments and special problems It takes in hand the member who votes contrary to orders, reprimands him orally or in writing, removes him from party posts, and, if all else fails, reports him to the national executive committee for expulsion, giving him a chance to state his case before that body It recognizes that some members have conscientious scruples, e g , in respect of religion and temperance, and allows them to abstain from voting on such topics, and it urges all to bring their doubts of policy to the party meeting Outside activities detrimental to the party are dealt with by the national executive committee The Labour peers, about fifty in number, seem to give little trouble, one of them has recently seceded to the Liberals, causing a mere ripple in the political pool

The National Council of Labor of 1948–1949 had seven members and a joint secretary from the Trades Union Congress, seven and a joint secretary from the Labour party (the national executive and the M P 's), seven from the cooperatives and a joint secretary—i e , twenty-one and three secretaries—and included the chairmen of all organizations The council meets about once a month to coordinate the work and ideas of all groups When the party is in opposition, the council has the last word on policy, when it is in office, the cabinet has this function The council has a liaison committee to present its views to the Prime Minister and other ministers The cabinet will consider any advice from the council, the national executive, and the parliamentary party but is not bound to take it, in the long run, however, it must satisfy these bodies One of the Labour peers and the editor of the *Daily Herald* usually attend the meetings of the National Council of Labor

The party gets much of its money in the localities by small annual subscriptions from the rank and file and by the profits from dances, card parties, picnics It has a little help from organizations like the National Union of Teachers which like to be on both sides of the fence and will assist a Labour candidate in one constituency and a Conservative in another But it owes its principal support to trade unions at the price of choosing the candidate, one of the union leaders The party has its young and eager intellectuals but often condemns them to hopeless battles in Conservative areas while the aging and commonplace union leader slips easily and unconsciously into a seat safe as Gibraltar Many Labour M P 's accordingly are an elderly and decorous lot, not adept with cutting speeches, smart tactics, or all-night sessions

In victory, the intellectual and professional elements gain, having won the doubtful seats After the election of 1945, the party M P 's included forty teachers and lecturers, thirty-one journalists and authors, sixteen doctors and dentists, thirty clerks and secretaries, and forty-one lawyers besides the normal assortment of industrial workers and trade-union officials (forty-five miners, eighteen metalworkers, twenty-seven union officials), and we may

take it that the intellectual element is in the party to stay The name Labour is a doubtful asset, it rallies workingmen but tends to repel other groups of society Had the party filched the title Liberal and a hyphen along with its contingent of voters who once went with that party, it would be better off numerically and intellectually

The party has the industrial areas of the towns and their suburbs and the coal districts and makes up in mass what it lacks in area It has a general support from religious minorities like dissenters, Jews, Roman Catholics and carries the cranks over from the Liberal party to sit beside the half-persuaded Communists It has an appeal to persons educated in the public or council schools as their sort of political association, and through them it has strengthened its foothold in the professions It attracts people of every social grade who want to improve the lot of the masses and think labor knows the way

The Labour party for all its socialism is democratic, feels deeply the value of liberty, and wants to do nothing to deprive the individual of his rights, and it has maintained this policy successfully The chief weakness is in imperial and world affairs The intellectuals have an uneasiness about the empire and are anxious to release populations which seem to want it, regardless of the consequences They have little interest in foreign affairs beyond vague aspirations for peace and are at a loss in their management The party does not devote to outside affairs the attention it gives to internal matters It has lost initiative in world affairs and tags along behind the United States, a passive rather than an active partner This has probably done no harm, but the same cannot be said of its policy in Asia By premature withdrawals it has given over large countries to terror and massacre on a scale rivaled only by nazism and communism This has encouraged Ahabs who see Naboth's vineyards in many portions of the empire and has raised grave problems for the world

## *COMMUNIST PARTY*

The Labour party has two puny competitors for the working-class vote, the Communists and the Fascists The Communist party is a small affair with a membership of from 10,000 to 50,000 in the period 1920–1948 The peak was reached in 1942–1945, when sentiment favored Russia as an ally, and was rapidly passed as Soviet policy antagonized Britain in the postwar period and weakened the British party The personnel is in a constant shift, as recruits come, see, resign, but has a permanent nucleus which is vocal enough and operates the *Daily Worker* and other publications, saying what Moscow wants it to say through all confusions, discrepancies, contradictions Communist influence is greater than the membership figures indicate, for some of the party work hard in the trade unions and have important positions in them Usually the party has a few councilors in the industrial cities and a member in the Commons, at present two (William Gallacher, Philip Piratin), elected out of twenty-one candidates in the election of 1945 It has tried for years to

affiliate itself with the Labour party in the hope of dominating from within but has spread the net vainly in sight of the bird and has had only rebuffs In May, 1949, the Labour party ordered "fellow traveling" within its ranks to cease and named fourteen Communist organizations with which no Laborite may have truck or trade

## *FASCIST PARTY*

The counterparts of the Communists, the Fascists, are in worse case After the rise of Mussolini, some groups of well-to-do Britons became British Fascists and hoped to help the police in time of disturbance They seemed too moderate to Sir Oswald Mosley, sixth baronet of his line since 1781 and once a rising star of the Labour party He formed a militant British Union of Fascists, put his followers into black shirts, and issued a weekly, *Blackshirt,* and in the course of time he turned from Mussolini to Hitler and adopted the Nazi party line, including anti-Semitism Thereby he alienated patriotic feeling and incurred confinement during the war On release, he reorganized his following into a British or New Union Movement, formed a British League of ex-servicemen as vanguard, and put out a paper, *Union,* an idea belied by the policies in it The Fascists provoke Jews and fight with Communists, responsibility being no doubt equal, they are in general bad odor and have failed at every election, local and general They have a poor choice of initials, B F , B U F , B U M , N U M , all of which suggest to Britons a compound of folly and vulgarity [6]

## *CONSERVATIVE PARTY*

The Conservatives can count on the support of most of the country people, gentry, farmers, and laborers, who have the purest Conservative faith and believe in King, church, and empire with the fervor of a religion They have also most of the business and professional people of England, though not of Wales, where there is a hankering for Liberalism—the wealthy groups in general like the industrialists, and most members of the Church of England They expect to win the rural, residential, and commercial areas and make a good showing on any map They have the longest tradition of all the parties, an *esprit de corps* and a feeling for team play which takes the place of the divine mission of the socialists

The National Union of Conservative and Constitutional Associations,

[6] Sir Oswald lives in Crowood House, Ramsbury, Wiltshire, and farms 500 acres in his spare time He has a London office at Sanctuary Press, Victoria Station, from which *Union* issues In a recent statement he claimed 500,000 followers, acknowledged Hitler as his friend, and had a good word for Franco's Spain A division of the 500,000 by ten would probably include all of his reliable following—*Pathfinder,* June 15, 1949, interview by William Luscombe A statement by the Communist party late in 1949 gave about 40,000 paid members.

created in 1867, formed unions in provincial areas and had covered the whole of England and Wales by 1885 In 1906 it formed the Junior Imperial and Constitutional League for Conservative youth, in 1918 it opened its doors to the women, new recipients of the franchise, and in 1924 it adopted the name National Union of Conservative and Unionist Associations It made efforts to organize labor supporters into Conservative trade-union councils or under labor advisory committees of local associations The youth movement declined, and a conference of the party in March, 1945, called for its early revival This was undertaken, and the Young Conservative and Unionist Association (ages 15 to 30) reported nearly 150,000 members in 1948

The National Union has two assemblies, the lesser and the greater, or the central council and the party conference The central council consists of representatives of the constituency associations and the chairmen or deputies of the local (Conservative) trade-union council or labor advisory committee It meets in March for two days, revises the rules, and does the preparatory work for the conference It elects the officers of the National Union—a president, a chairman, three vice-chairmen—and makes a subcommittee on arrangements for the conference out of these officers, the chairman of the party organization, and the M P of the constituency of meeting It may pass resolutions to send to the leader of the party for his consideration

The annual conference is a much larger body—4000 delegates in 1948 Each constituency sends two men, two women, two Young Conservatives, and the chairman or deputy of the Conservative trade-union council or labor advisory committee, and leaves them reasonably free to say what they will At the same time, each provincial area elects a man, a woman, a Young Conservative, and a trade unionist to the National Union executive, and the larger areas send additional representatives In 1948–1949, the executive committee had sixty-seven members elected by twelve areas, including twelve trade unionists, seven representatives of the Scottish Unionist Association, a man and a woman from the Ulster Unionist Associations, twelve coopted members, and thirty ex-officio members, heads of the party and its chief organizations This executive committee elects its own chairman and appoints an honorary secretary and a secretary of the National Union It has the duty of assisting to elect a party leader when the necessity arises, it was present at the elections of Neville Chamberlain in 1937 and Winston Churchill in 1940

The executive committee manages the party affairs from the office in Abbey House, Victoria Street, Westminster, London S W 1 It works with a number of committees for youth, teachers, etc, and has advisory committees on policy and political education, on the women, on the youth, on the trade unions, on local government, on university associations, and on teachers' associations The first committee (on policy and political education) is in charge of propaganda, conducts conferences, courses, and lectures, puts out publications and films, and has opened a school at Swinton which is to be the staff

college of the party It supervises the research department which does the background studies for the industrial and agricultural charters and investigates the working of the Labour government's enterprises

The party conference met for four days, October 6-9, 1948, at Llandudno, Wales The executive committee made its report, which was discussed Twenty-five resolutions were discussed out of 178 sent in, the debating was amicable and the atmosphere was that of a tea party Dissentients were few and spoke softly The agenda was in charge of a general purposes committee, composed of a representative of every area, the chairmen of the advisory committees, and all officers It had tried to obtain some help in sifting resolutions by sending a list to the prospective delegates at their homes and asking a choice of the most important but had replies from only one out of four of the addressees, and in the circumstances did the best it could The party conference boasts of its democracy in contrast to the supposed oligarchy of the Labour party conference

The Conservative central office attracts much less attention than the party conference It is in charge of a chairman of the party organization, two vice-chairmen, two treasurers, and a general director, all appointed by the party leader The director manages the routine work of the office and the party organization and is honorary secretary to the National Union for the sake of coordination The present chairman is Lord Woolton

The chairman, under the leader, has charge of the party funds, the source and use of which are a dark secret The drink trade used to contribute heavily and may still do so Industrialists give something to save their property from nationalization and gentry to save their land Persons anxious for titles and honors help the funds privily and some worthy cause publicly, in confidence that their merits will not be overlooked in the next King's list issued by the party But these sources have yielded only a trickle of late, with the shrinkage in the numbers and assets of wealthy men The energetic Lord Woolton, imitating the Labour party, has enrolled individuals to the number of 2,500,000 and is collecting their annual fees, sometimes as little as a shilling The local associations hold parties and whist drives and collect from door to door By these means Lord Woolton was able to get the promise of a million pounds in three months in 1947 The subscribers want to know what becomes of their money and are suggesting annual statements and conferences of treasurers from top to bottom Nothing has been done as yet but the reforms seem inevitable, for the one who pays the piper will call the tune [7]

The party director has an imposing array of assistants and advisors and keeps lists of promising candidates for Parliament young men from the

[7] *National Union of Conservative and Unionist Associations, 69th Annual Conference*, held at Llandudno, October 6-9, 1948, pp 1-29 (Hereafter called *69th Conservative Report*) Lord Woolton (Frederick Marquis) has been Socialist, Liberal, Independent, and is now Conservative He is a businessman and was Minister of Food in the wartime cabinet

Oxford and Cambridge (debating) Unions, business or professional men, authors, journalists, even scholars who have asked for a chance to stand or have been approached on the subject and have not said no He does not veto the choice of a local association but can withhold funds and exert pressure which only a wealthy association or candidate can withstand Often he finds the local people open to his suggestions and can place his men without difficulty He trains and instructs agents in cooperation with the executive of the National Union, advises candidates, and is a power in the party

The party is facing the problem of a candidate's expenses In former times, the first question asked of a candidate was how much he was prepared to spend of his own money Most Conservative and Liberal candidates provided a large part of local funds and election expenses An ordinary election costs from £500 to £1000 and left the candidate well out of pocket Only a rich man could afford the loss, and in the period before 1945, 40 percent of the Conservative M P 's were of titled families, 40 percent, including some of the others, were directors of business enterprises Fully a quarter were from Eton, a third from Eton and Harrow, and made the Conservative the public school party The predominance of Etonians, in itself no cause for shame, comes not so much from the inherent virtues of Eton as from the practice in wealthy families of sending their sons there The party in Parliament is top-heavy with wealth and social position The wealth has its advantage but is no aid to popularity, it alienates some middle-class and many working-class voters A few Conservative associations have put up workingmen as candidates but only in a half-hearted way and in doubtful constituencies The conference of 1945 took note of the condition, deplored the absence of wage earners from the ranks of its M P 's, and sought to do something about it The present rule is that a constituency association is to raise half the election expenses and ask the candidate for the rest and for £100 a year This is far too much for many good candidates and has been abandoned by most of the associations Lord Woolton's hope is to eliminate the personal contribution of all to whom it would be a hardship and to stress the quality of the candidate The party has been willing to do many things for the workingman but not to move over and make room for him in the Commons If it would exchange half its Etonians for trade unionists, it would gain in voting strength It needs less evening dress and more overalls This would require a sacrifice from the wealthy and well born but is one which good men might make for the sake of the party

The party has its groupings a right wing, heavy with wealth and title, wanting no change in the system which has brought them these good things, and a left wing, which believes in moving with the times and competing with the Labour party on its own ground In the second wartime coalition this wing secured agreement with Labour in setting up a commission under Sir William Beveridge to study the problem of social security and make recom-

mendations Both parties accepted the principles of his report (1942) and the ensuing charter of social security, embodying national insurance and assistance to the needy, a health service for everyone, care for children and victims of industrial injuries In these respects, the Labour government has been carrying out a policy for which the Conservatives deserve but fail to get equal credit In 1947–1948 the same wing induced the party to accept industrial and agricultural charters with many clauses in favor of the workers, and it repeats them in the election program But it has great difficulty in competing with the Labour party for the place at the right hand of the workingman Labor has this already, is doing whatever it can to retain it, and claims the credit for many measures of the present Parliament to this end The Conservatives merely follow along and to this day have devised nothing original to appeal to the worker They do not take a personal interest in the workingman's aspirations for a better standard of life When they started to discuss the point at the conference of 1948, they promptly wandered off to the discomforts of the middle class under the Labour government's restrictions and missed chances to go the Laborites one better in respect of housing, diet, clothing, conveniences

In theory, the party stands for private enterprise, in practice it is willing to take extensive public ownership as a necessary evil and accepts existing nationalizations in all respects but steel It has less pride in the empire than in previous times and has made concessions to Irish and colonial nationalism and to aggressive powers on the Continent that would have horrified its grandfathers Under leaders like Stanley Baldwin and Neville Chamberlain it has done badly in foreign and imperial affairs, under Winston Churchill it did brilliantly On the whole, it has a better understanding of these interests than the Labour party

In theory, the party elects its leader at a meeting of M P 's, peers, prospective candidates, and the executive committee of the National Union, but how much power this infrequent assembly wields is not certain It elected Chamberlain in 1937, after the King had chosen him Prime Minister, after Chamberlain's death in 1940 it tendered the post to Winston Churchill, who likewise was already Prime Minister In either case, another choice was highly unlikely, and the assembly merely confirmed an accomplished fact At any rate, when the party is in office and loses its chief, it takes the man whom the King selects as Prime Minister and puts up with him His tenure can be shortened by an allegation of ill health, a post-mortem after a lost election, or more painfully by an open campaign to the effect that Mr Encumbrance must go The last course repudiates the party record, sets brother against brother, leaves hurt feelings, and altogether is bad for the party and not to be undertaken without a conviction of imminent disaster to the party or the nation The party meetings of M P 's could do much of this business behind closed doors but are infrequent and poorly attended The condition could be

changed at a moment's notice, but as it is, the leader has a free hand in policies and appointments and hears discontent from M P 's and whips rather than from the organizations

In the present house, the Conservative party has minor allies ten Ulster Unionists, two National party members, thirteen Liberal Nationals For practical purposes, all these are Conservatives Party headquarters in a normal year spends about £50,000 and in election year £25,000 extra in propaganda and grants to candidates A general election costs the Labour party £300,000 to £350,000 and the Conservatives an additional £100,000 As has often been said, elections are not won with prayers [8]

## *TWO-PARTY SYSTEM*

The two main parties have much common ground and dispute only on how far to go in a given direction The differences are enough to give the voters a real choice and to justify controversy but not to place the respective bodies of supporters in permanently separate compartments The parties are offering bait to the same fish, know that it will not stay hooked, and regard each other as honorable rivals They have confounded the prophets of class war and have vindicated the national tradition of moderation All this is irritating to the person who is hagridden by an idea and wants to thrust it willy-nilly on the people but is highly satisfactory to the democrat who believes no one and no creed infallible If the nation is in danger, the parties will join in a coalition to save it, and when the air is clear will return to normal opposition to each other, as the Briton dislikes coalitions and prefers a government and an opposition

Under the union of executive and legislature, the parties are tight-knit organizations The member stands for election primarily as the party's nominee with the support of the local association and party headquarters Elected as a party man, he is expected to vote as the leaders direct, short of a party calamity If he does not, he commits a breach of trust If he votes several times against the leaders, he may be expelled from the party, repudiated by the local association, and faced at the next election by another candidate bearing the party label, which will in nearly all cases bring about his defeat To most voters in urban constituencies, the candidate is little without the label and not to be weighed against the desires of the party leaders He must accept the

[8] The program of the Conservative party in view of the election has been published as a pamphlet, *The Right Road for Britain*, of which we note here only the chief economic aspects The party will maintain the whole range of social services through the country, merely reducing costs where possible It will stop nationalizations and repeal that of iron and steel, remove many controls but not of necessaries, reduce taxes, especially the income and purchase taxes It will carry out its agricultural and industrial charters and encourage promotion by merit in industry Whether workingmen will be attracted by this program in any number is doubtful, but there are other factors in any election than programs

party program and not promise items of his own that conflict with it Only a man with large personal popularity can withstand the pressure, these are few and mostly in the Conservative party The M P often envies his colleague in the House of Representatives in Washington who flouts his leaders with impunity and modifies their policies in many ways Yet in no other fashion can the party perform what it promises and get on with the nation's business

The two-party system is deeply embedded in the political structure of the country. It is aided by the practice of voting in single-member constituencies, where a voter can favor only one party The Labour party made headway despite this handicap in exceptional circumstances, and the voters, finding three parties to hand, eliminated the Liberals and had two again A third party has a difficult time not only in the voting but in the House of Commons The seating presupposes two parties, it marks them off sharply from each other and makes it impossible for a member to transfer his allegiance by a gradual circuit through various groups differing slightly in their programs He must cross the floor and commit himself completely Procedure also assumes two parties, the agenda is proposed by the government and opposed by the minority party The third party can hardly find room to stand here It may support either government or opposition or abstain from voting, and in any case it is in trouble If it supports one party consistently, it might as well belong to it, if it changes from one to the other, it seems inconsistent, and if it does not vote, it seems not to have a policy at all If it divides, as often happens, it seems to be no party Its wealthy friends, seeing no chance of forming a government, save their money The rank and file lose zeal And the third party is gradually absorbed into the others

For the two-party system there are reasons of theory and practice Generally speaking, one will find two large groups in a community, those who are satisfied and those who are dissatisfied with the society in which they find themselves The first set are the natural backing for the Conservative party, the second for the Liberals or Laborites These are not the total population, there is a group with an open mind on change and doubts of the particular changes mooted They have the balance of power, swing from side to side, and make and unmake governments At the election of 1945 they had about 2,500,000 votes out of a possible total of 31,000,000 votes (not persons) and were chiefly of the middle and lower white-collar sorts When the parties differ only moderately from each other, the doubtful voters can swing about easily Party propagandists exaggerate the differences, directors of policy soften them and leave varying policies a matter of more or less Each party intends the general good, it may view this through class spectacles but does not want to govern for a class alone The first object is to carry on the government, the second to promote pet ideas

The two parties provide a stable condition of politics An election is a choice of a government and the execution of whatever policies it has. The

majority or even the largest party of several commonly gets a number of seats out of proportion to its voting strength, Labour had less than half the votes in 1945 but won 393 seats out of 620 in the geographic constituencies This is all to the good, as it enables the government to do what it has promised The opposition finds fault with the policies, does not obstruct for the sake of obstruction, and contents itself with the prospect of the next election Everyone knows whom to blame if things go wrong, the government has no excuse for inaction

Other systems of voting—e g , proportional representation and the alternative vote—tend to evoke many parties No one of these can hope to form a government except by coalition with others Each of them gives up something of its program in the search for a least common denominator of policy, which may come to be nearly nothing, and knowing this beforehand, it can safely promise the moon In the coalition, key persons are placated by posts for themselves and their friends for which they may not be fit Intrigue and jobbery flourish, responsibility is lost, and no one knows whom to blame for failures The coalition is so busy trying to maintain itself that it can do little for the country, and presently some groups develop a grudge, withdraw, and let it fall A period of this impotence and instability brings democratic government into contempt and leaves the way clear for a dictator

The two parties in their contest with each other appeal to all groups, racial, social, religious, they bridge gaps, moderate differences, allay friction Of multiple parties, some are sure to be based on race or religion and are a political abomination, they provoke other races and religions to form parties too, inflame differences, and join in the rush toward chaos Some of the groups may gain private advantages, but self-government as a principle is lost, and presently the man on horseback appears The widespread failure of democratic regimes comes from lack of the proper mental attitude and from superfluity of parties The two-party system alone can render self-government effective in a large community

The homogeneity of the population in Britain makes party organization and policy simple Leaders do not need to appeal to sections with differing interests or resort to obscurity in the hope of displeasing no one, they can say the same thing everywhere They have clear-cut policies and definite platforms and compete in hard argument Apart from an inevitable amount of claptrap, an election is an intellectual exercise The parties are tightly knit and highly centralized The members know that they may have to carry out everything they promise and in a short time, this is a sobering thought Even a humble party man feels the shadow of responsibility on his shoulders Members of Parliament must not make things difficult for the leader, and he must not make things difficult for them An election may come at any time like a thief in the night and will be over in three weeks from the date of announcement. Parties therefore must be always on their toes and, like the wise virgins, keep

their lamps lit By-elections and local elections are preliminary tests of strength and keep the parties in training, and all factors contribute to a remarkable keenness of political interest

## *PRESS AND B B C*

The people have most of their political equipment from the accumulated experience of centuries and absorb it as unconsciously as the air they breathe For day-to-day information they have the press, the radio, and items that escape these sources but pass from mouth to mouth The great majority read the London newspapers like the eight national dailies, some of which have gigantic circulations The *Daily Express* (Beaverbrook Press, independent) approaches 4,000,000 copies a day The *Daily Mail* (Lord Rothermere, independent Conservative) has 2,000,000 Two tabloids are well known the *Daily Mirror* (Rothermere, independent) with 3,700,000 and the *Daily Graphic* (Lord Kemsley, Conservative) with 750,000, both read chiefly by the feminine section of society Like these are some Sunday newspapers, separate from the others and not merely Sunday editions The *News of the World* (owned by Lord Riddell before his death, independent) has the enormous figure of nearly 8,000,000 founded on erratic human doings and the proceedings of the courts *Sunday Pictorial* (Rothermere, independent) has 4,000,000, *People* (Lord Southwood, Labour) exceeds 4,500,000, *Sunday Graphic* (Kemsley, Conservative) runs over 1,000,000, as does the *Sunday Chronicle* (Kemsley, Conservative) The *Sunday Express* (Beaverbrook Press, independent) surpasses 2,500,000 Much of the large circulation in these cases is due to features and represents little political influence, the purchaser reads the editorials and is not impressed or reads the features and does not know what is on the editorial page The union of large circulation and little influence is not peculiar to Great Britain but is common to English-speaking countries and is a source of distress to newspaper editors and proprietors and also, it seems, to Conservative and Republican parties

In Great Britain there are journals of small circulation, of appeal only to the intellect and consequently of much more influence than the others The *Times*, run by a trust and not primarily for profit, prints 240,000 copies but reaches the well-educated groups and has full and impartial information The editors are often in the confidence of government and give their paper an official tone The *News Chronicle*, once the property of the Cadbury family and now under a trust, is Liberal and has over 1,500,000 copies The well-known Manchester *Guardian*, once the pride of C P Scott of that city, is now under a trust also and sells 100,000 copies The Yorkshire *Post*, connected with Anthony Eden and naturally Conservative, puts out over 150,000 copies The *Daily Herald* (Odham's Press, Labour) has over 2,000,000 The Communist *Daily Worker* can do little better than 100,000 On Sunday, the Conservative can read the *Sunday Times* (Kemsley) and not be displeased

with the *Observer* (Lord Astor) The Laborite can read the *People* (mentioned above) or the cooperatives' *Reynolds News* Only the Liberals are short of a Sunday paper but can get along with the *Observer*

Some weeklies are notable The *Economist* (independent, Liberal in tone) surveys the economic field ably and is under a trust, as is the independent Conservative *Spectator New Statesman and Nation* is the organ of intellectual Laborites There are monthlies and quarterlies of high value like *Fortnightly* and *Round Table* All these are for the adult and discuss ideas and issues Read by leaders in politics and the civil service, they are the places in which a professor or journalist may plant ideas with some hope of their adoption

The Londoner can read three evening newspapers the *Evening News* (Rothermere, independent Conservative), the *Evening Standard* (Beaverbrook Press, independent), and the *Star* (Liberal), none of great value There are light and sometimes frothy popular weeklies like *John Bull* and several illustrated publications, *Picture Post*, *Illustrated*, *Leader*, *Everybody's*

The best-known groups of ownership are Kemsley Newspapers, with twenty-four papers and over 17 percent of the newspaper field, Associated Newspapers (Rothermere), about twenty papers, Westminster Press forty-three provincial papers, Provincial Newspapers, fifteen papers, London Express Newspapers, three papers with large circulation, generally known as the Beaverbrook Press although Lord Beaverbrook is no longer director There are five news agencies, of which only Reuters has a world-wide service, it is under a trust to preserve its integrity The Press Association is owned by the provincial press and is closely linked with Exchange Telegraph, which has sole stock exchange rights The Associated Press and the British United Press are departments of two American agencies [9]

The socialists had devoted much indignation to the press which was against them They denounced it as a tool of the capitalists, subservient to advertisers who dictated its policy and to the employing class in general They declared that it pandered to low tastes, suppressed items of news, distorted others They denounced its monopoly by reason of the high cost of putting out a paper and were free with the term *prostitute* about it The conclusion, of course, was the need of a government newspaper In large part the fury arose from frustration, the worker passed by the socialist papers on the newsstands to buy the capitalist dailies, which was the real grievance

The Laborite House of Commons had enough of this hostility to set up a royal commission to investigate the press for two years, 1947-1949 The report shows nothing approaching monopoly, no important trend toward further concentration of ownership, a negligible influence of advertisers on policy, a remarkable freedom from corruption It admits shortcomings like partisanship and distortion for the sake of "human interest" but says good things even of the popular press and praises the intellectual journals It finds strongly in

[9] *Postwar Britain, 1948-49*, pp 153-156

favor of private ownership—"free enterprise is pre-requisite for a free press"—and proposes a press council of twenty-five members, representing all interests including the public, to improve standards and seek the good will of all parties concerned

Broadcasting is a government monopoly by the B B C, the British Broadcasting Corporation This body gives much political news but is sensitive to protests from minorities and cultivates impartiality and formality It is chiefly a check on accuracy and can offer little of the discussion and interpretation without which the news means little to many people Perhaps the monopoly is at fault here, a private system side by side with it might work to the benefit of both At election times the B B C gives all parties a chance and at all times it presents speeches by important persons, and it has a hearing among the adult section of the population Mouth-to-mouth information is often accurate by reason of the short distance it travels and is usually of personal matters, sometimes anticipations of policy All parties are busy with publications and meetings and give plenty of information for all who care to use it.

There is no official censorship of press or radio, but these commonly take their tone from government on foreign affairs, service matters, and the doings of the royal family and may hesitate to give out news items which seem to the detriment of the nation, the services, the family Occasionally the practice misleads the public—e g, the long silence about the proposed marriage of Edward VIII while the American press was full of the affair In part the reticence is from fear of the libel laws, more severe in Great Britain than in the United States, but it has worked some injury and might well be abandoned

# Chapter 3

# *Elections*

## *CONSTITUENCIES*

FOR PURPOSES of an election, the country is divided into electoral districts called constituencies or, in Yorkshire (and sometimes elsewhere), ridings, which have one member each A constituency is either a division of a county or of a large city or a parliamentary borough, i e , a town large enough to deserve representation by itself, and in the first two cases is called simply division The prewar representation was as follows

The city of London had two members and the metropolitan area sixty, from the sixty boroughs, the other English boroughs had 193 members and the county divisions 230 Wales had eleven borough and twenty-four county members, Scotland thirty-three and thirty-eight respectively The Scottish borough might be a town or a group of small towns within a shire, the countryside being the county division, and one Welsh borough was a group Northern Ireland had four borough and eight county members to make a total of 603 members from geographic constituencies The other twelve were university seats, whose representatives were elected by graduates Oxford and Cambridge had two each, London one, the junior universities two for the lot The Scots universities had three members for the lot, the University of Wales and Queen's University, Belfast, one each

The qualification for voting was age twenty-one and the occupation of a residence or business premises of the annual value of at least ten pounds or marriage to an occupant A university graduate had a vote in the constituency of residence and another for the university A person might have a vote by residence, business, and university degree but would have only two votes in the same constituency and only two in all In the 1930's it was possible for 26,000,000 voters to cast 31,000,000 votes The business vote was most important in the city of London, which had 6608 business electors out of a total of 10,380 Eleven other constituencies in 1945 had over 1000 business electors, central Glasgow had over 3000, Belfast 4253 Many university graduates lived abroad and did their voting by proxies or, in 1945, by air mail

The arrangement of geographic constituencies dated from the last redistri-

bution, in 1918 Since that year, population has shifted about a good deal and made changes necessary In December, 1944, an act created twenty-five new constituencies for the forthcoming election and raised the membership to 640 The Labour government disliked the university seats and the plural voting and abolished them by a Representation of the People Act, 1948 For the election of 1950 there were 625 single-member constituencies and a rule of one adult, one vote (506 English, 71 Scots, 36 Welsh, 12 North Irish) [1]

## *VOTING REGISTER*

The first requisite of an election is a register of voters, which is in charge of local authorities Every year the clerks of boroughs and county councils, who act as registration officers, send out forms for the people to fill in and may employ canvassers to call at the houses They want the names of all British subjects over twenty-one not certified lunatics, idiots, confined criminals, offenders against electoral laws, or sitting peers The voter must have resided in the constituency for the three months ending June unless he is a member of the armed forces or the merchant service Persons likely to be absent on election day may put their names on an absent voters list and get papers to send in by post Certain groups of persons overseas may appoint relatives or friends at home as their proxies, and all qualified persons may vote if they take the trouble to make the preliminary arrangements

On July 15 the registration officers publish the provisional voters' list and place copies in the town hall or post office They will hear complaints and often get them from party agents who want supporters on the list Having considered all suggestions, they make up a final list by October 15 After that date, a person omitted may take his case to the courts if he considers the vote worth the expense

Any qualified voter may be elected except clergymen of the Churches of England, Scotland, and Rome and persons holding salaried offices from the government, not counting cabinet members Irish peers not in the Lords may be elected but not their Scots colleagues The sheriffs and mayors act as returning officers in counties and boroughs respectively and may not vote unless two candidates are tied, in which case they have a casting vote The voters are keenly aware of their importance as judges of national policy and masters of such employees as Prime Ministers, cabinet and other ministers, and members of Parliament and like to be addressed by the dignified name of electors

The time for an election is chosen by the Prime Minister within the five-year constitutional limit in the hope that the moment will favor his party He sounds out the party leaders and the party meeting if he is a Laborite, and if he finds that dissolution is the least of the evils in prospect, he advises

[1] The 1950 parliamentary elections returned 325 Laborites, 298 Conservatives, 9 Liberals, 2 Irish nationalists, and the Speaker

the King to dissolve Parliament A royal proclamation states that the King has thought fit with the advice of the Privy Council to dissolve Parliament An order in council for the issue of the writs goes to the Lord Chancellor of Great Britain and to the governor of northern Ireland They send the writs to sheriffs and mayors to conduct the election as returning officers These dignitaries, who have quite enough to do, usually give the work to permanent local government officials called deputy returning officers The eighth day after dissolution, not counting Sundays and holidays, is nomination day and the same for every constituency Nine days after that, again omitting Sundays and holidays, will come election day, and the race is on The campaign will take only about three weeks

## *NOMINATIONS*

The candidates are residents of the locality or approved outsiders Any British subject of good character is eligible and need never have seen the constituency before He will suffer little from the unfamiliarity, as the vote is for the party label in most places A prominent resident might pick up 2000 votes which would be denied to an outsider and would be preferred in a doubtful constituency, but commonly the party is the thing The choice is in the hands of the local association, who will prefer a suitable native son but may be unable to find one and will be open to suggestions from headquarters Possibly they are in one of two opposite cases they may be sure to lose and would like an outsider to be the victim, or they may be sure to win, find a prominent member of the party fallen on evil days in his customary constituency, and invite him to find a haven with them

At this point another element enters into the situation Often economic groups, professional associations, welfare societies are anxious for advocates in Parliament and will offer financial support for the selection of one of their members or at least adoption of their cause by the nominee Some of them may care little about the label—Liberal, Labour, Conservative—so long as they have someone in the house In the upshot, the candidate may stand for his constituency and for an industry, trade union, profession, or philanthropic society When the choice is made and the approval of headquarters obtained, the local association submits its man to a meeting of party supporters in the constituency for ratification

In any case the candidate should have a good reputation, some education, ability on the platform, and presence of mind He should be able to greet everyone heartily and shake hands warmly but should not slap backs, kiss babies, or address persons whom he has never seen before by their first names Such conduct would be a *faux pas* among a people with some reserve and feeling of personal dignity

The candidate must appear before the returning officer on nomination day with nomination papers, each signed by a mover, a seconder, and eight other

voters in the constituency, and with a deposit of £150 to lose if he fails to get one-eighth of the number of votes cast This requirement discourages freak candidates supported chiefly by their own optimism but does not prohibit them It is common to bring many nomination papers both as an advertisement of one's popularity and as a precaution against technical flaws in one or two The deposit may come from the local association or may be borrowed and covered by insurance But if the company thinks the man's chances poor, it will charge so heavy a premium as not to make the transaction worth while The Labour party makes a levy on all its candidates to reimburse losers Usually 6 or 7 percent of the candidates lose their deposits, to the benefit of the exchequer and the delight of their opponents If only one candidate appears on nomination day, he is declared elected, this happens in forty or fifty constituencies Elsewhere elections occur nine days after nomination day

The burden of the work falls on the local associations, composed of party members interested enough to pay fees constantly and attend the meetings, and on the agents which many of them employ They may get help from party headquarters in the form of funds, literature, advertising, and speakers but in the main rely on their own efforts, and appoint committees for the work If they have the money, they employ salaried agents on a permanent tenure, often professionals trained by party headquarters with prospects of promotion to a more important constituency or to party headquarters Such a person keeps the association in working order, advises the candidate, manages the campaign, and remains carefully within the bounds of the law He has a staff, part paid, part volunteer, he sees to the nomination papers and the deposit and with his staff hires committee rooms, arranges meetings and time over the radio, distributes leaflets, displays posters, directs the party workers, and guides the activities of the candidate He is in touch with headquarters and may call on them for what they have and for the aid of prominent speakers if the outcome is in doubt

## *ELECTION DAY*

The interval after dissolution is one of excitement Each candidate has one free postal delivery to every voter and uses it for his election address, commonly a four-page folder On the outside is a photograph of the candidate, usually taken some years before, a biography to show his achievements and virtues, and a list of the meetings he will address Inside is a statement of the policy of the candidate and of his party and a criticism of his opponents He may describe the other candidates as unfit in ability or understanding for membership in Parliament but not as lacking in moral character unless he is prepared to prove his statement in court. The published arguments accordingly are political and not personal On the back page his wife may add a word to the women. The voter may read these addresses and approve the con-

tents, put them into the wastepaper basket, burn them, or send them back to the candidate with hostile comments, but if he receives none, he feels slighted

The candidate gets many letters which ask his opinion on matters not discussed in the election address and may go so far afield as vegetarianism and vivisection He ought to answer even in the negative rather than ignore them, for he may win support by a courteous and reasoned refusal but is certain to lose it by indifference He may use an assistant to write the replies but does well to sign them himself rather than by a rubber stamp He will speak from a van in the streets with a loud-speaker, at factories in the lunch hour, and over the radio, in the evening he will address the people in halls, on vacant lots, and at street corners After the speech will come questions from the audience, some to get information, some to embarrass the candidate He must answer the questions, for he faces his masters the electors To refuse or evade will provoke jeers and shouts of condemnation and a flood of rumors about the moral and intellectual weakness of the candidate and his party The question period is a severe test, but if the candidate knows his case and that of his opponents, he will have a reply for most of the points raised He should be definite, he should make humorous remarks, he may in his turn ask the heckler a difficult question A little stage play will help, he may place a friend in the audience to ask a question for which he has a neat reply He must count on finding opponents at these meetings but need rarely fear organized attempts to break them up, which would bring him sympathy among fair-minded people.

He cannot reach many of the voters at meeting, perhaps as few as one in ten He must make the doorstep his objective, and he and his supporters go from house to house and ask the wives for the electoral favor of themselves and their menfolk He may see the door shut in his face but usually will have some kind of greeting, e g , that she is glad to hear all sides The canvasser can generally tell from the first answer whether the voter is for or against him or is in doubt In the first two cases, he will thank her or accept refusal cheerfully and go his way, in the third, he will spend some time to find what she really wants and will assure her that the candidate has that very thing much at heart He will encourage her to talk on rents, jobs, mortgages, the children and will tell her that he does not want to influence her vote and is merely presenting facts on which she may base her judgment The most baffling case is that of a person who professes one idea and will promise no vote unless the candidate will advocate prohibition of alcohol or of vivisection or of the eating of meat A few voters are expansive enough to promise to vote for all candidates Most will indicate their intention, consciously or not, and will give the canvasser a good idea of how the election is going In conclusion he will make a note of his experience and the probable vote

A candidate may also send out imitation ballot papers with a cross opposite his name and an invitation to vote thus, as a help to persons confused by the

intricacies of the process When they have finished, the canvassers compile their findings in an edition of the voting register by annotations "for," "against," "doubtful" with a view to getting out the vote on polling day

In the meantime, the ballots have been printed by order of the returning officer or deputy They contain simply the names of the candidates and a space for a cross opposite each, not even the party label As the vote is for the member of Parliament only, there is no need of a voting machine

The polling stations are generally public buildings like town halls or schools but may be any shelter from the weather Each is in charge of a presiding officer, his assistants, and a policeman In each are a number of makeshift polling booths and a receptacle for the ballots One clerk has the ballot papers, one the register The voter gives his name and address to the clerk with the register, who checks the voter's number in that book and gives it to the clerk with the ballots This clerk writes the number on the counterfoil of a ballot paper, tears off the paper and gives it to the voter, having stamped it in a supposedly secret way The foil and the paper each have a number, which has no relation to the voter's number in the register The voter retires to a booth with his paper, puts a cross opposite the name of the candidate he prefers, and places the paper in the ballot box As he leaves the station, he may tell the party workers what his number in the register is They make up lists of those who have voted and send them to committee rooms Here the workers look for the names of those who have not voted and try to get them out They borrow cars to move the infirm, the aged, the indifferent If any of these cannot mark a voting paper, the presiding officer will do it for them A voter may ride to the poll in Brown's car and vote for Smith, though this is considered bad sportsmanship One of the officer's problems is to prevent dead men still on the register from voting, often in indifference to their preferences while alive If he suspects personation, he can ask the individual to swear to his identity or produce proof, and through the number on the foil he can trace the vote and declare it void if there is fraud Personation is a crime but is looked on as a joke and indulged in by all parties, and it rarely precedes a prosecution The presiding officer and his staff are sworn to secrecy about ballots not suspect of fraud and do keep their word The ballot is secret accordingly although the party workers have a good idea of how nine-tenths of the votes went Often a voter does not care to conceal his choice and comes into the station waving the imitation ballot paper he has had through the mail and calls out, "Where can I vote for Mr Brown?" He may even need to be dissuaded from dropping the paper straight into the ballot box

The poll is held from 8 A M to 8 P M , or 7 A M to 9 P M if a candidate has asked for an extension The candidates spend the day touring the constituency and encouraging their workers After close of poll the ballot boxes are gathered together at the town hall or other public building for the count by

clerks under the supervision of the returning officer or deputy and the eagle eyes of candidates and their scrutineers Most ballots are in order and give no trouble Some are marked so poorly that the voter's intention is in doubt In these cases the returning officer consults the party agents and makes a decision Some ballots are marked in favor of all candidates and are voided, as are ballots with comments written on them Some persons will take the trouble to go to the station, obtain papers, retire to booths, write on the papers "both scoundrels" or "all three fools," drop them into the box, and depart, satisfied at this discharge of electoral duty Placing these aside, the officers complete the count and announce the winner He proposes a vote of thanks to the returning officer and promises to care for the interests of the borough as a whole, and compliments the losing candidates on their sportsmanship They second the vote of thanks, compliment him, and shake hands all around That they have just finished denouncing each other for incompetency is forgotten as a mere part of the game, and the contest ends in good feeling, at least on the surface The returning officer reports the result to a civil servant called clerk of the crown

In the country the excitement is usually less than in town The meetings are smaller, the journeys of candidates longer, the influence of landlord and employers greater The count takes more time, and the result may not be declared for a day or two, especially in the north of Scotland Disputed elections went to parliamentary committees until 1868, since that year they have gone to two high court judges who examine the matter and report to the Speaker The house hears their opinion and confirms the election or orders a new one

Elections are expensive, costing from £500 to £1000 in each constituency The law allows only £450 plus twopence per registered voter for each candidate and requires him to submit an account after the election There are heavy penalties for bribes, threats, false declarations of expense, the hiring of cars to carry voters, the offender is disqualified from voting or standing for election for a term of years Such offenses rarely happen, as public opinion is strongly in favor of honest contests Even a cup of tea at the committee room costs a penny to avoid a charge of treating Nevertheless the wealthy candidate has an advantage Before the nomination he is only a prospective candidate and may spend as much as he likes nursing the constituency, i e , appearing at functions, helping worthy causes, making acquaintances And on election day he may borrow cars from his friends to take voters to the polls, under limits imposed by the Representation of the People Act of 1948 He may induce the party headquarters to spend on posters and advertisements as they will, provided they mention no names The poor candidate is at a disadvantage in these respects, but the independent is worst off, having no party behind him and relying entirely on himself and his friends Few such get

elected, only ten were completely free of party ties in November, 1948, but they at least keep the parties on their toes [2]

About a fifth of the voters do not vote at all, owing to illness, absence, distance from the polls, or indifference to the candidates, the parties, or to politics as a whole The largest single element is despair in a constituency where one party always wins, the opposition feel it is of no use to vote

## *THE M P*

Nothing in the law obliges an elected person to attend the House of Commons, but one who does not will be dropped by an indignant party at the next election The conscientious M P attends and does what he can in house and committee work He sees his constituents who come to London, may entertain them sparingly, and answers the letters which pour in on him, sometimes at the rate of 200 a week They are chiefly about personal problems, some not touching on administration at all, some asking legal advice Like them are requests made personally at home, and after a meeting the M P may see a line-up of people who want him to reconcile husbands and wives or select a trade for a boy He answers the requests cheerfully and promptly and does what he can even for known political opponents, who may repay in golden opinions if not in votes, and he does it all for the good of the borough or division

At the week ends and in recesses he will be in his constituency, addressing meetings and attending dinners, card parties, and picnics and speaking at all of them Membership is now a full-time job, incompatible with the great majority of occupations Some lawyers, journalists, and businessmen of London try to combine the occupations and are likely to suffer in health and efficiency Payment is essential, it began at £400 in 1911, rose to £600 in 1937 and in 1946 to £1000, from which expenses are allowed for income tax There is also free railway travel Some members, chiefly Laborites, manage to live on the pay. Others find it does not meet the outlay on expenses in London and at elections and on subscriptions to worthy causes and must draw on private funds or those of organizations Trade unions have long been subsidizing members, industrial concerns appoint to directorships The house passed a resolution in 1947 that no member should make a contract limiting his actions or requiring him to act primarily as representative of an outside body, but this will make little change in existing relationships

Almost no members can or wish to make money out of the duty, the few who have done so are objects of public indignation The member has privi-

[2] *Ibid*, p 7 Fragment groups were two Irish nationalists, one independent Conservative, three I L P, two Communists

In the 1950 parliamentary elections the Communists lost both the seats they had previously held and no longer had any parliamentary representation

leges freedom of speech on the floor of the house, exemption from jury duty and from arrest except for grave crimes during the session and the journeys to and fro He has protection from assaults and indignities by outsiders and benefits from a number of extensions of this privilege in recent days, e g, from press criticism of his motives Membership is an honored and respected occupation, "our member" is a man to speak of with pride

By and large, the members are a group exceptional in education and experience Many are university graduates, a smaller number come directly from the "public" schools Lobbying being of little value under the tight party system, groups with political wants try to place men of their own in Parliament to advocate the cause in public The Federation of British Industries, the National Farmers' Union, the National Union of Teachers, the British Medical Association, the Central Landowners' Association, the Newspaper Proprietors' Association, the Cooperative Union, the Brewers' Society, the miners, metal-workers, transport workers—to mention only a few—have their men in the Commons The armed services, the banks, the insurance companies are there too There is nearly always somebody with expert knowledge of a technical subject who can tear a bill to pieces if it is drafted by amateurs If an industrial topic comes up, both employers and workers can voice their opinions Another consequence is that lawyers do not predominate as in other countries, they are from 14 to 20 percent of the membership The experts are on the floor, not in the corridors, and get special attention in the house and committee

Groups with a favor to ask waste their time approaching the M P He depends on the party for election at home and for voting in the house and he will not do anything that the party does not want If threatened with a loss of votes at home, he will still prefer the party, which can find him another seat The group will do better to approach a cabinet minister, but it will need to persuade him that the party will gain votes by the proposal and the opposition can make no capital out of it This is equivalent to saying that the proposal is in the public interest, and if it is, it can be embodied in a private bill for all the world to see In these conditions, little of the sort is attempted and that little is for an administrative favor rather than legislation, as in a current case in London involving a parliamentary private secretary of the Labour government (1948) and an alien-born promoter The member has plenty of callers who want nothing for themselves but wish him to promote some pet idea

The member can resign only by a devious method, he applies to the Speaker for one of two nominal posts under the crown the stewardship of the Chiltern Hundreds or of the manor of Northstead Once appointed, he ceases to be a member of Parliament, resigns the stewardship promptly, and is free When members become public officials in this or more substantial ways or go to the Lords or die, they leave vacancies Writs are issued for by-

elections, which follow in due course Several of these occur every year and attract much interest as indications of the flow of the political tide [3]

[3] Elections are described in C F G Masterman, *How England Is Governed* (New York, 1922), chap 3, and Michael Stewart, *The British Approach to Politics* (New York, 1938), chap 12 The personnel of the House of Commons and the cost of elections are investigated in J F S Ross, *Parliamentary Representation* (New Haven, 1944), pp 17-118, 127-133

## Chapter 4

# *House of Commons: Daily Business*

### *BUILDINGS OF PARLIAMENT*

PARLIAMENT meets in a large imitation Gothic building on the bank of the Thames at Westminster close by the Abbey and St Margaret's Church, where the members attend church on special occasions The building is elaborate with halls, offices, and rooms for the convenience of members but is of interest to the world at large as the domicile of Commons and Lords It is not old, most of it was built in 1840-1852 after a great fire in 1834 The most conspicuous feature is the clock tower, 320 feet high, the home of Big Ben On the first floor of this tower is a room for prisoners, but it has not been used by members for sixty years

The old House of Commons was a small hall surrounded by galleries and lit by windows near the roof, with no fresh air or external view On each side were five long benches covered with dull-green leather As the visitor entered by the main door, he found the benches for government supporters on his left, those for the opposition on his right, and between them an open rectangular space, the floor At the end of the floor was the Speaker's throne, surmounted by a canopy In front of the throne was a table on which lay the silver mace, symbol of the authority of the Commons At the table sat the clerk of the Commons and two assistants in wigs and gowns, and on it were books, documents, boxes Above the throne was a gallery for the reporters of *Hansard*, the official record of debates, and for the press Opposite the press gallery was one for strangers, distinguished persons, or mere friends of members who had tickets for the purpose Usually the debates were public, rarely the house might wish to hold a secret session and would order the galleries cleared Fifteen feet in front of the main door was the bar, a long brass rod in a tube to be pulled out when needed Behind it stood persons to receive the thanks or censure of the house and new M P 's waiting admittance It marked the boundary of the house, and by it sat the sergeant at arms in ceremonial court dress [1]

[1] The visitor notes particularly his black knee breeches, black stockings, buckled shoes, and ornamented sword He changes the mace from the top to under the table when the

The benches were without desks and much like those of a church choir They held only 346 members, not much more than half the total Narrow side galleries could seat 91 more, and on the rare occasions of a full attendance, the other galleries were occupied and the aisles were full of standing members The ministers sat in the front or treasury benches on the government side and looked across the floor to the front bench and prominent members of the opposition party A gangway crossed the house at right angles to the floor to permit members to go up and down, and below the gangway, i e , on the far side from the Speaker and on his left, sat members who disagreed with both the government and the official opposition No member had a right to a particular seat but one who had been at prayers might reserve a place for the rest of the day as a reward for his devotion to God and country The prominent members, however, had customary seats by courtesy Under the gallery near the treasury bench was a row of seats called the box, for the use of officials Technically it was not part of the house and was separated from it by a low partition, and it contained civil servants ready to supply information and documents to ministers in need

Such was the design of the old house, destroyed by bombing in 1941 The new chamber, now in process of erection and to be completed by 1950, has the same general plan There is to be more lighting from above, a new system of ventilating and heating, and enlarged galleries all around Some space is to be saved below the house for offices No doubt the appearance will be more handsome but the place will be easily recognizable as the House of Commons [2]

That the house is so small and lacks desks for the members is a source of wonder to the stranger but is justifiable It encourages a sense of intimacy and facilitates questions, interjections, a quick interchange, and a running debate If the house contained over 600 desks, one for each member, it would be large and impose a feeling of distance Often it would be nearly empty, and the orator would be addressing furniture and walls As it is, all members are close together and can hear a conversational tone The greatest statesmen of the land face each other across a narrow floor, attack, defend, debate the hottest issues without possibility of evasion The small chamber stimulates the interest of members and public and will remain in spite of its inconveniences

The House of Lords has a similar design but a more luxurious appearance, being decorated in red It is longer and higher than the old Commons chamber and has stained-glass windows and dark carved paneling At the far end from the door are two thrones for the King and Queen and a smaller one for the

house goes into committee, and back again when it becomes itself, and on some days gets a good deal of exercise this way Ordinarily he merely keeps an eye on the galleries, notes the vacant seats, and issues tickets to members who want to put their friends there Lord Hemingford, *What Parliament Is and Does* (New York, 1948), pp 18-19

[2] S Gordon, *Our Parliament* (London, 1945), chap 5 The new house will have loud-speakers of the mechanical sort,

heir apparent if there is one of age to occupy it, and in front of the King's throne is the woolsack for the Lord Chancellor. In mid-floor is a table for three clerks, the clerk of the Parliaments and his assistants The bar of the Lords forms a large pen with standing room for 150 persons, where Speaker and M P 's come to hear the speech from the throne at the opening of session Since 1941, the Commons have been using the Lords' chamber for their proceedings while the Lords have retired to the King's small robing room

The rest of the building has a library, writing and smoking rooms, kitchens, dining rooms, restaurant, the terrace over the river, and rooms for committees, meetings and the press Older parts of the building are Westminster Hall, for centuries the habitat of the central courts of justice and scene of famous trials like that of Charles I, and the cellars, notorious for the gunpowder plot and still inspected at the beginning of Parliament The building has been called the best club in England and is certainly the largest

The life of Parliament is divided into sessions, each of which begins in October or November and lasts for the greater part of a year At the beginning of a Parliament there is a formal opening and a ceremonial one, at later sessions, the ceremonial opening only, of which the chief feature is the reading of the King's speech to the assembled Lords and Commons in the Lords' chamber At its conclusion, the King, Queen, and their attendants return to the palace and the Commons to their chamber while the Lords remain to begin business [8]

The speech has been written by the ministers to expound the program of public business for the session and is addressed to the Lords and Commons except a paragraph on estimates, for the Commons alone The ministers also draw up an address of thanks to the King which leads to a debate on the

[8] The formal opening is for the choice of a Speaker by the Commons and his acceptance by the King The members meet on the appointed day in their houses An official of the Lords called the Gentleman-Usher of the Black Rod—a black rod with a golden tip—calls the Commons to the bar of the Lords on the direction of the commissioners who do duty for the king The Commons come, and the chief commissioner, ordinarily the Lord Chancellor, bids them choose a Speaker They go back to their house The clerk of the Commons points to a member, who knows what this means and proposes another member as Speaker Still another member seconds the nomination, which is carried unanimously in ordinary circumstances Making a show of reluctance, the nominee is escorted to the throne by his proposer and seconder Regaining his composure, he thanks the house for the honor they have done him, promises to do his best, and receives congratulations and good wishes from the leaders of the several groups in the house

Either that day or the next, he presents himself at the bar of the Lords and submits himself to His Majesty's approbation The Lord Chancellor assures him of this The Speaker claims the ancient rights and privileges of the Commons, the Lord Chancellor declares His Majesty's confirmation of them The Speaker reports to the Commons, and takes the oath of allegiance, in which the others follow him The oath must be taken before business commences, for a member may not sit within the bar, speak or vote or draw his salary until he has done so

Identification is simple, the clerk of the crown, to whom the returns go, gives the

broad policy of the government as outlined in the speech Members of the opposition move amendments in criticism, humbly regretting that His Majesty's speech fails to include certain items, and normally incur defeat, if they succeeded, the government would resign Five or eight days are spent on the address of thanks and give the public some notion of the program and the objections to it The Speaker allows a general debate the first three days, then calls the amendments on matters of most interest There will be a day for foreign affairs, another for home matters, and perhaps a dozen debates on well-defined subjects At the end, the Prime Minister replies and defends his policies

Bills to carry out the program are next in order and occupy the time of the house except for private members' motions and bills and private bills The house has a recess at Christmas, Easter, and Whitsuntide and otherwise sits until the summer recess, usually in July or August. If business is finished, this will last until November and a new session, if not, it may be broken by a short sitting, unwelcome to everyone During session, the houses adjourn at their pleasure, and, if for more than fourteen days, give their Speakers power to recall them for an emergency Prorogation is by royal authority and ends the session and all business, unfinished items must begin anew in the next session save that either house may carry a bill over by a special resolution The King or his commissioners give notice of prorogation, they also terminate

clerk of the house a book with the names of those elected No special steps are taken to detect impersonators, who would soon reveal themselves in the course of proceedings

The formal opening is over and is enough for the life of that Parliament, the ceremonial opening is next and comes at the beginning of each session, perhaps a day or two after the formal opening when there has been one The members assemble in their chambers, the King and Queen take their places on the thrones in the House of Lords, which is full of peers in scarlet and ermine, peeresses in evening dress and jewels, bishops in their sober apparel, court officials in costume, and presents a memorable spectacle The King sends the Gentleman-Usher of the Black Rod to the Commons Seeing him approach, the sergeant at arms closes the doors Black Rod knocks three times and begs permission to enter, which the Speaker grants This is a ritual to remind everyone that neither the messenger nor the King may enter the house without its leave as Charles I did in 1642, but the repetition has little value three centuries later

Black Rod enters with a low obeisance and delivers the command of the King (the desire of the Lord Chancellor if the King is absent) for the presence of the Commons in the Lords The members comply and appear at the bar of the Lords The King reads the speech from the throne, composed by the ministers At its conclusion, the King, Queen, and visitors leave and the Commons return to their own chamber The Speaker reports that he has listened to the King's speech and has a copy, which he reads to the house All the members have printed copies anyway, but the ritual continues The house gives first reading to a bill for preventing clandestine outlawries, purely to show its autonomy, drops it, and proceeds to debate an address of thanks in reply to the speech from the throne Sir J A R Marriott, *The Mechanism of the Modern State* (New York, 1927), vol 1, pp 515-520 Members with tender consciences about oaths may affirm their loyalty under an oaths act of 1888

a Parliament, proroguing it and promptly dissolving it by proclamation on the instructions of the government

## *COMMITTEES*

The house does much of its work by committees The best-known are the five or six large standing committees to consider details of bills after second reading, as will be described There are select committees to conduct inquiries, and many committees for the routine work of the house sessional committees like the committee of selection to choose the members of the standing committees and committees for private bills, the committee on petitions, that on standing orders to watch procedure, that on public accounts, that on estimates, that on privileges, that on publication and debates report, that on kitchen and refreshment rooms, etc

These are all official The members are chosen in several ways, which in the last analysis mean the Speaker or the cabinet, and commonly represent all parties in proportion to their house strength as near as may be The theory is that all points of view are to be expressed but not necessarily heeded

In addition to the group committees there are committees of the whole house, i e , all members of the house acting under a different chairman (the chairman of committees, who is Deputy Speaker and chairman of ways and means, all in one man) and with slightly different procedure The chief committees of the whole house are committees to consider bills, of supply, of ways and means, for money resolutions The committee of the whole house on a bill takes the place of the standing committee which discusses bills on their second reading It deals with very important bills on account of their importance and with unimportant bills for their unimportance, saving time by not sending them to the standing committee, and it takes financial bills The committee of supply sits on the estimates and authorizes payments to the crown (the government) for specified purposes The committee of ways and means authorizes taxes and payments to cover the expense of the estimates A committee on a money resolution permits some special expenditure not foreseen in the budget For these committees, the Speaker leaves the big chair and the house The Deputy Speaker occupies a small chair at the table in front of the empty throne and is in evening dress, and the sergeant at arms puts the mace under the table Debate is slightly less formal than in the house, a member is permitted to speak more than once The committee considers a resolution, passes it, converts itself into the house again with the Speaker on his throne and the mace on the table, and reports to itself what it has done [4]

Proceedings are regulated by standing orders, a summary of routine which may be suspended or altered by vote of the house There is no need for all members to be in the house, a party needs only enough for a good showing and not even that on private members' days and may keep the others available for

[4] Lord Hemingford, *op cit*, pp 21-23, 52-58, Gordon, *op cit*, pp 122-126

divisions, i e , formal records of votes Many members haunt the libraries, the smoking rooms, the dining rooms, the lobbies, and do their own work or see callers They need only glance at the signs, operated by electricity, which tell them who is speaking and on what topic, and they return to the chamber if something of interest or importance turns up When the division bells ring, they troop to the lobbies to vote as the whips say Some may even go to theaters, dinners, private parties, or meetings in the evenings, provided they are back by 10 45 P M , the normal time for a division on the day's bills or amendments Nevertheless, almost all have an idea what is going on and will be in the house when needed

## *A DAY IN THE COMMONS*

On an average day, the members will use the mornings for committee work and conferences or the business of constituents, some, on whom responsibility sits lightly, will use them for pleasure In the period between the wars, the house began to sit from Monday to Thursday at 2 45 P M and continued to 11 30 on a normal day During the war and since, different timetables have been adopted in 1945-1946, 2 15 to 9 45 P M , in 1947, 2 30 to 10 But as no new period seems to have been settled yet, it will be convenient to use the older timetable for illustration Saturday and Sunday sittings require special house resolutions and are confined to emergencies

Shortly before 2 45 P M the members gather in the house Policemen in the lobbies call, "Hats off, strangers", and the Speaker's procession enters The first is a messenger of the house in evening dress and knee breeches, then comes the Speaker, his trainbearer, his secretary, the chaplain in his robes, the sergeant at arms with his sword, the macebearer with the mace, which is a long staff decorated in gold leaf and topped by a gilded crown The Speaker and the chaplain pause at the table, the chaplain reads the 67th Psalm and three short prayers The Speaker ascends his throne, the doorkeeper shouts, "Mr Speaker at the chair", the mace is laid on the table, and the tardy members stream in This business takes five minutes The officials take their places, the five messengers station themselves, two at the door behind the Speaker's throne, one by the sergeant at arms, two out in the main entrance Conscientious members carry bundles of papers from what is called the vote office printed records of the previous day's business, an outline of the private business for the day, the order paper for the daily agenda

There are ten minutes for private business (two days a week) or for private members' business (two other days) The private business is in charge of the chairman of committees, who is Deputy Speaker He presents one item after another and gets it through at once If an item is opposed, or is lengthy, he will name another day for it or withdraw it Private members' business under this heading we postpone for later consideration

## *QUESTIONS*

Now comes question time, for which the members consult the order paper or daily agenda in their hands Some of them have put down questions on two days' notice to ask of ministers or other persons in charge of business, e g , the chairman of the kitchen committee They hand the question to a clerk at the table, who looks it over and may suggest revision or elimination Any dispute about it goes to the Speaker, as does the question itself when agreed on by questioner and clerk The Speaker sanctions it except for irrelevancy or danger to national security and sends the lot to a clerk for arrangement by topic, numbering, and printing in the order paper If the questioner wants an oral answer, he will star his question, he may have three such a day If not, he will see the answer printed eventually in the official report of debates Naturally, the starred questions get the best attention Specialization is necessary to permit absence of ministers not questioned, and particular ministers are named for certain days of the week One day may be given to the Minister of Foreign Affairs and bring about a rapid argument on his policy

About a hundred questions are commonly starred, and from seventy to ninety are answered The others will be answered in print in the reports If a member sees that his question is not likely to be reached by 3 45, he may go to the clerk at the table and postpone it to another day

At question time the Speaker calls on the questioners in order to put their questions to the appropriate ministers The first M P arises and begs to ask question number one The minister has had two days' notice and, in consultation with his civil servants, has an answer—yes, no, an explanation of the circumstances mentioned, a promise of inquiry, or, in case of embarrassment, an invitation to a private conference on the matter Immediately after the answer, any member may put a supplementary and impromptu question "Arising out of that reply, may I ask ?" This the minister is to answer on the spur of the moment or after a word with his civil service secretary in the box To fumble, bluster, give glimpses of skeletons in cupboards is inexcusable The ideal is to assume an air of frankness and confidence and say nothing for a minute in a convincing manner The minister may allege that it is not in the public interest to reply, but if he does this frequently he will draw suspicion on himself, the government, and the party The worst he has to fear is a succession of questions from day to day on the same topic which may exhaust his powers of saying nothing and compel some admission

These supplementary questions are also a test for the Speaker He decides whether they are permissible, he must be careful, firm, and fair and not let the period be wasted on one or two points This is the hardest task of his day

If the member is merely dissatisfied with the reply he may give notice to raise the matter on the adjournment at 11 P M He will go to the Speaker, book the next free adjournment, and notify the minister, to make sure that

he or his assistant will be there At the indicated time, the member will explain his suspicion and the minister or assistant will reply an equal length of time But if the member is indignant at the original reply, he may move adjournment to discuss a matter of public urgency, and if he has the support of forty members, whom any respectable opposition can muster, he will have a debate on the matter at 7 30 or 8 P M In this case, the minister will go through a severe test If he does not satisfy his opponents, they will ask for a division on the topic The government will win, but the rattling of bones in its cupboard will arouse curiosity in house, press, and public and will be music for the opposition Sometimes many of the government members will feel that the questioner was right In this case, the minister will do well to bow to the sense of the house and alter his policy, if it is not fundamental Not all questions are hostile in intent, some are inserted to give opportunities for expounding the achievements and glory of the party Question time is a valuable check on the policies and information of ministers [5]

At 3 45 come a variety of small items A new member may be introduced, he is escorted up the floor by two members of his party while supporters cheer and opponents comment audibly on his record or the by-election He bows three times to the Speaker, takes the oath, signs the roll, and assumes the rights of a member Private members' ballots may be held at the beginning of session only, motions for private members to bring in bills under the ten-minutes rule, or for papers or for the nomination of select committees, are in order and are quickly disposed of After them, the way is open for the business of legislation and finance which occupies most of Parliament's time, and the house proceeds with the agenda on the order paper, usually readings and discussion of bills

The speaking is rarely spontaneous, the government whips or party officers have arranged with the opposition whips for the time allotted to the debate and the participants in it, and proceedings are by the plan At intervals, the opposition asks for a debate on some important aspect of policy or for a vote of censure, and the Prime Minister assigns a day for a wide discussion The opposition will be defeated on division but will have advertised itself to the political world So the business proceeds until 11 P M save that most members are at dinner from 8 15 to 9 15 P M leaving a thin house and a Deputy Speaker

At 11 P M normal business ceases unless the government has items with automatic right of way (exempt business) like money bills or has persuaded the house to suspend the eleven-o'clock rule, neither of which is welcome to

[5] At 3 45 the Speaker may allow a private notice question not on the order paper—or earlier, if questions have ended A member has given notice to the Speaker and to the minister of his question and has the consent of both to ask it It will be short and the answer will be informative to the extent of the minister's wish The question period is discussed in Hemingford, *op cit*, pp 75-79, and Gordon, *op cit*, pp 104-106

most members Otherwise, a motion for adjournment is in order, but unopposed business may be taken and complaints aired if no immediate action is expected The minister who is the target should be notified or he will probably not be there and the shaft will fall to the ground At 11 30 the house is adjourned Many poorer members, especially on the Labour side, live in the suburbs and hasten to catch the last bus or train home, as London transportation systems give little service after midnight

On Fridays the house sits from 11 A M to 4 30 P M and allows only private notice questions This day is for private members' bills until Easter and perhaps for two or three weeks after it Most of the ministers are in the departments, many members are away in their constituencies to address meetings Friday evening, the favorite time of the week The house is thin and contains an undue proportion of cranks, publicity seekers, and earnest souls eager to save the country by some pet measure, all holding their breath for the chance to speak Legislative business ceases at four, the motion for adjournment is in order and adjournment comes at 4 30 P M [6]

## *PUBLIC BILLS*

The ordinary bill is a public bill, affecting the country as a whole and presented by the government Some department has an idea for the public good, the minister gets approval of it at a cabinet meeting and consults the organized interests affected If he can get all points of view in the preliminary stages, he will have less trouble in the house and may even obtain passing as an agreed measure Having taken objections into account, he makes an outline of his bill and sends it to the Treasury, which looks at it and gives it to the parliamentary counsel for drafting This official and his staff of draftsmen check the bill with existing laws to see whether some of these will need to be repealed or altered and, having noted such items, put the bill into legal shape, which may be a slow process and need several drafts As it emerges, the bill has (1) a long title to describe its purpose, (2) a short title by which it will be known, (3) a preamble about the need for legislation on the topic, (4) the clauses to be enacted, and (5) schedules of illustrative documents and of laws and groups likely to be affected Notice of the bill appears on the order paper, and at the proper time, the Speaker reads the motion The minister bows and hands a copy or a mere dummy to the clerk of the house, who reads the long title Rarely the minister will take ten minutes to expound purpose and contents and will allow one reply The Speaker says, "Those in favor say aye, those to the contrary say no" Nobody says anything, the Speaker declares, "The ayes have it" This is the first reading, the house consents to printing and bringing in the bill on a fixed day and in the upshot knows something of the

[6] The daily work of the Commons is explained in W I Jennings, *Parliament* (London, 1939), chap 4, and Hemingford, *op cit*, pp 10-14

bill Copies of it are placed in the vote office, for bills and papers, the members take them, read them, and discuss them among themselves

The second reading, at the time set, begins on a motion by the minister that the bill be read a second time and leads to a debate on the principles of the bill which may last two or three days The opposition may accept it in principle, make remarks on detail only, and help to pass it as an agreed measure or may oppose it and move destructive amendments or the six-months' hoist "that this bill be read a second time this day six months," which is a devious way of trying to defeat it If the bill requires money, the house goes into committee The Speaker leaves the chair and the house, the clerk of the house retires, the mace goes under the table, the chairman of committees presides over the discussions [7]

If there is no opposition in principle, the speaking will be short and on detail Otherwise, the opposition will make prepared attacks on the principles of the bill This committee of the whole house considers a resolution to sanction the spending of the money required The resolution passed, the house goes out of committee and becomes its normal self with the Speaker on the throne and the mace on the table to receive the report of the committee, i e , itself The same matter is discussed by the same people twice—a bit of antiquarianism from the times when the Speaker was practically a royal nominee and a hindrance to a discussion of financial matters The change from house to committee to house consumes time and might well be abandoned A leader on each side sums up the case for and against the bill The motion is put that the bill be read a second time, the house divides and passes the bill so

When the bill has been read a second time, it goes to a committee, perhaps after an interval of a week or so Bills of great importance go to the committee of the whole house, others to one of the standing committees or to a select committee if outsiders are to testify Four of the standing committees, called A, B, C, D, have fifty to eighty members in the same proportion as the parties in the house, the fifth is the Scottish committee, containing all the Scots members and a dozen others and interested in matters affecting Scotland only There is no separate Welsh committee, but all members from that country and Monmouthshire are assigned to the committee considering bills for Wales, if any A sixth standing committee has been in use since 1945 by reason of the press of business Members are appointed to committees by the committee of selection of eleven members, six of whom are government supporters The Speaker draws the chairmen from a panel of not fewer than ten, chosen by him and including the chairman of ways and means and his

[7] The term *reading* persists from times before printing was common, when the bills were actually read three times

Under a house rule, a bill postponed for six months may not be considered at that session

deputy Two-thirds of a committee are permanent, to them twenty or so are added for each bill—if possible persons with a knowledge of the subject matter By this means, specialization of committee work is deliberately avoided and some of its advantages are retained Half or more of the committee usually attend, the quorum is twenty and a speaker may speak as often as the chairman will let him A committee is spoken of colloquially as "upstairs," as it sits on the upper floor of the building

The chairman of the committee manages the consideration of the bill clause by clause, often consulting the minister whose bill it is The minister, his parliamentary secretary or undersecretary, and a law officer may sit with the committee, they have no whip except the secretary The chairman has closure powers and can stop irrelevance or repetition, the committee keeps a *Hansard* and votes as it sits The press may come in but usually avoids the trouble The members often discuss clauses on their merits rather than the possible bearing on party fortunes The bill will stand but may be modified in detail after the criticism in committee In a small group like this, anyone can speak, and the M P has a chance to show his worth better than in house proceedings The committees try to do their work in the mornings, e g , 11 A M to 1 P M , to be free for the house session but will sit 2 30 to 4 30 if necessary They suspend their work for a division

The conclusion of their labors leads to the report stage The chairman reports the amended bill to the house for consideration and further amendment and so brings on the third reading Debate on this is short as opinions have been expressed at length and the opposition are ready to accept the inevitable Amendments are likely to be verbal only, if a new and serious point is raised, the bill will be sent back or recommitted to the committee A final division takes place and the bill has passed the House of Commons An order is made that the clerk carry the bill to "another place," i e , to the Lords, and desire their concurrence, and the bill goes to the upper house It has passed the Commons as the cabinet wishes it, not mutilated by ill-contrived or hostile amendments or inexpert wording In case of emergency, standing orders may be suspended and all stages passed in one day

A bill may be introduced in either house save that money bills must start in the commons and law bills usually in the Lords under care of the law lords The Lords have the same procedure as the Commons but do their work faster, being a smaller body The committee stage is managed by the whole house, and a small standing committee may revise the wording If one house has amendments not acceptable to the other, the bill goes back and forth Leaders or whips of the houses may confer and reach a compromise, or the view of one house may prevail or the bill may be dropped In an extreme case, the government may invoke the Parliament Bill of 1911, as will be described later

Once it has passed both houses, the bill awaits the royal signature This is given at once if necessary or to a batch before adjournment or at the end of session Lords commissioners, appointed by the King, send Black Rod to go through his ritual, and give assents in Norman French *"Le roy le veult"* This ceremony is in the House of Lords, the Speaker of the Commons is present and some M P 's may stand at the door and applaud or protest according to their emotions on the subject [8]

## *FINANCIAL BILLS*

Financial measures are ordinarily the most important business of the house, they include votes of supply and of appropriation and bills for taxation Supply is granted out of the Treasury, and the money is appropriated according to heads of estimates After these operations, the condition of the Treasury will indicate whether bills are needed to increase or decrease taxes The income of the government forms the consolidated fund, represented by the exchequer account in the Bank of England Out of it certain payments are made regularly by law without new consent of Parliament, called Consolidated Fund charges—like the interest and expenses of the national debt, the civil list, the salaries of some judges and other important persons, to about 30 percent of public expense in the 1930's Bondholders and other beneficiaries know that their income is assured unless Parliament passes an act about it, which is a remote contingency For other payments Parliament gives consent every year by an appropriations act Taxation is treated similarly, indirect taxes do not need annual approval but income tax does

Parliament's first work in finance is to discuss the estimates by each department of its needs for the next year From October to the end of the year department officials meet Treasury men for the purpose They take last year's figures as a base and consider changes in the light of requirements for this year Early in the session the committees of supply and ways and means are set up and start work as soon as they can get material Some M P on the government side moves that the Speaker leave the chair to let the house become committee of supply under the chairman of committees This done, the committee debates the civil, army, navy, and air-force estimates for about twenty allotted days, on which no other business is allowed Since many members are eager to talk, a ballot is held, the winners give notice of resolutions they propose to move on topics in particular departments But after the debates they generally withdraw the resolutions

By a rigid rule, no one may propose to spend more than the government suggests, but anyone may move to spend less A common device is to move to reduce a minister's salary by fifty or a hundred pounds, as a way of bringing

[8] The progress of a bill may be followed from Jennings, *op cit*, chap 8, and Gordon, *op cit*, pp 107-119 Black Rod repeats his routine on the opening of Parliament, prorogation, on the dissolution, and the signing of bills

on a discussion of that minister's policies The motion will fail, if it passed, it would amount to a defeat of the government and deprive the minister of the whole of his salary As each vote is discussed, the government explains its policies and answers criticism Finally resolutions are passed to grant the crown so much for the services specified

There are many more departments, or votes to be taken in a single department, than days to discuss estimates, and in the last two of the twenty days the guillotine procedure is likely to be used to dispose of the lot Some departments will have escaped a discussion of their estimates entirely and may be at ease about their skeletons Even in the debates, the subject is not finance but politics, the opposition is less anxious to discover unnecessary expenditure than wrong policy on the part of the government and is only a superficial inspector of accounts Sometimes the government finds it must ask for more money than it has suggested, and lays a supplementary estimate before the committee If the consideration is not finished by April 1, the beginning of the financial year, the committee passes a vote on account to maintain services temporarily

The next task is to raise the money allotted by the committee of supply, and this falls to the committee of ways and means, another committee of the whole house, under the chairman of committees or ways and means Resolutions are in order to empower the government to raise taxes and loans Most taxes are continuous from year to year, some, like the income tax, are voted for one year at a time A particular indirect tax is chosen for this honor also as a corrective variable, it was on tea for a long time, later sugar Any rate can be changed on anything, but only if the government wishes

To the ways and means committee at the end of April the Chancellor of the Exchequer makes his budget speech, often two hours in length He refers to the accounts of last year and shows whether the figures differed from the estimates of a year ago If the yield from taxes exceeds expectations, prosperity is indicated, for which the government takes credit, if it is less, adversity—which the opposition will promptly blame on the government If there is a deficit, the government must borrow, if a surplus, it may reduce the national debt, on which a report is next due Usually the accounts differ from the estimates by only 1 or 2 percent, owing to the good judgment of Treasury officials

The Chancellor turns to the estimates for the coming year, completed in committee of supply, reveals reductions or increases proposed in taxes, and moves budget resolutions to authorize them The changes have been kept secret among cabinet, high civil servants, and printers, and go into effect immediately to prevent speculation in the commodities affected In 1936 a scandal occurred when some of these proposals came to the knowledge of persons who profited from them, and the political career of Mr J H Thomas came to an end A leak to the press occurred in 1947 but to no one's profit

The members receive copies of documents and financial tables to make the statements and proposals clear The leaders make only brief comment pending a study of the speech, and the house turns to other work In the ensuing weeks the proposals receive discussion and are passed as the finance act, which closes the session

Government accounts are watched by the comptroller and auditor-general, who like a judge can be removed from office only by request of both houses of Parliament and draws a salary from the Consolidated Fund As comptroller, he sees that the money collected goes into the fund and that none goes out without authorization As auditor-general he examines the accounts to see that the money has been spent only in approved ways, but he does not consider it his primary business to comment on the wisdom of the expenditure He reports to the public accounts committee, fifteen members representing the parties by voting strength, with a chairman from the opposition, normally their last financial secretary to the Treasury This committee sits with the comptroller and with officials of the Treasury and departments and examines witnesses, papers, and records It gives most attention to questions raised by the comptroller and may catch some bad expenditure but has simply not the time or energy for a complete overhauling of the accounts It reports to the house and publishes its findings Not many members read the publications, but civil servants do, and proceed with a weather eye on the committee

There is an estimates committee of fifteen members whose duty is economy and the avoidance of expenditure for insufficient return They examine the record of one department after the other and report annually, but they can hardly deal with more than one department in a year and as amateurs they find it difficult to extract skeletons from the cupboards of civil servants who are ready with a long list of technical reasons for their spending The house has little interest in their reports, not really caring for economy in itself This committee might well be enlarged and divided into subcommittees to deal with several departments at once Undoubtedly there are always items of unnecessary expenditure which escape the scrutiny of all but those who benefit from them and keep a discreet silence Grants in aid give special difficulty, the comptroller does not follow them in detail and may unwittingly leave balances with the recipients [9]

The debt is in two parts, the short-term, borrowed for everyday needs and repaid from receipts, and the long-term, in stock and bonds The money for the short-term debt is obtained from financial firms by means of Treasury bills These are promises to pay issued at a discount, which serves the purpose of interest, and the rate is a measure of the government's financial soundness The Bank of England also makes ways and means advances to the government

[9] The progress of financial measures may be followed from Jennings, *op cit*, chap 9, Hemingford, *op cit*, chap 4, Michael Stewart, *British Approach to Politics* (New York, 1938), chap 11

for the same purpose The long-term debt is in stock and bonds, the same thing as far as the holders are concerned Part of it is the well-known consols (consolidated national debt), whose rate of sale is another financial barometer The debt has been growing since 1697, largely by military expenditure, and on March 31, 1948, was £24,167,553,345 12s 3d There was also an external debt owing chiefly to Canada and the United States

The house has two ways of making investigations a select committee and a royal commission If a great change is in contemplation, one of these bodies may be employed to hold an inquiry, prepare the public mind, and obtain facts, opinions, and suggestions A select committee is composed of ten to fifteen members of Parliament, of both or all parties, to do work defined in the resolution or order calling them into being They may require the presence of persons and documents as they will Witnesses may not excuse themselves on grounds that would be good in court and have assurance that the house will protect them from the consequence of their words A royal commission acts in much the same way It has a chairman experienced in inquiries and members chosen for their knowledge, who need not be members of Parliament All are appointed formally by the King, not the house, they hold public sessions and receive oral and written evidence If not unanimous in their conclusions, they may make majority and minority reports

## *ADJOURNMENTS*

Debates on motions to adjourn have an important place in business In an ordinary debate, remarks must be relevant to the matter in hand, but a wide-open discussion is sometimes of value and is allowed on motions to adjourn, especially at 11 P M A member may let the Speaker know that he wishes to discuss some topic not involving legislation and, with the Speaker's consent, books the next free period at this time—"obtains the adjournment," as the phrase is He may say his say but had better notify a minister if he expects any reply to it He may not talk long, as 11 30 stops everything

The government itself uses a parallel device It may move the adjournment of the house at any time and bring up some matter not requiring legislative action Commonly this is an event which has just taken place and may have effects on the country which need to be evaluated The opposition may also use the adjournment Immediately after questions, they may move to adjourn on "a definite matter of public importance " If forty members rise to support, the Speaker accepts the motion and the house agrees The motion to adjourn is put at 8 15 P M that day and the matter is debated At any time during a debate a member may move the adjournment simply in those words This is a "dilatory motion," usually for delay or obstruction, and may be refused by the Speaker or chairman He may permit it, but speeches must relate to the desirability of adjourning The motion may be made sincerely and usefully

when things get into a tangle or something unexpected crops up, and it gives everything a breathing space [10]

At any time a member of the house may "spy strangers" or call the attention of the Speaker to the fact that strangers are present The Speaker may himself order all strangers to withdraw or take a vote of the house about it If it passes, the order is strictly enforced against even the press, and the house goes into secret session This was done sometimes in the first war and much more frequently in the second, at the initiative of the ministry

## *PRIVATE BILLS*

A public bill may be introduced by a private member and is called a private member's bill, but this is a matter for later consideration Private bills come in frequently, e g , to permit some company or local authority to proceed with a project which affects property rights The promoters must place advertisements in the papers, notify owners and occupiers, and lay their plans before local authorities, unless they are the same persons They engage lawyers known as parliamentary agents to put the requests into form, and give the bills to the private bills office of the Commons or to the clerk of the Parliaments in the Lords, to be inspected Opponents may send memorials to the same places If no member has an interest in a private bill, the chairman of committees will take charge of it, put it through first and second readings under the ten-minutes' rule, and send it to a private bills committee of four commoners The lord chairman will do this duty in the Lords The committee members, commoners or lords, invite witnesses from all groups interested, may take evidence on oath, hear the lawyers, and look into the bill clause by clause If they dislike it or find active opposition, they file it away and let it expire

If they favor it and the several interests agree, the chairman of committees will report it in the ten minutes If there is no opposition, he will send it to an unopposed committee and shortly get third reading for it If there is opposition in the ten minutes, he will set it down for another day and confer with the opponent If this person persists, the bill will be set down for some day at 7 30 P M for debate and will take precedence of other business Failure will not endanger the government, and members may speak their minds But only if the bill introduces some new principle into the law or threatens someone's rights is it likely to fail Most of the work is off the floor of the house but there is always the chance to raise objections on it

Instead of a private bill, the company or authority may obtain a provisional order from a government department to permit it to complete its plans It may not act, however, until Parliament has approved by a provisional order confirmation bill, which is generally unopposed in view of the department's sanc-

[10] Gordon, *op cit*, pp 119-122, Hemingford, *op cit*, pp 81-84

tion If there is opposition, the bill goes to a select committee and may be altered but hardly rejected [11]

The house places no limit on an individual speech but does not want much talking The front-bench member may speak for an hour, others usually ten or twenty minutes A member speaks only once, unless the Speaker permits a second effort Short comments and interjections are always in order The house wants not oratory but a good conversational style, fact, argument, clarity, and conclusion It likes hard hitting, taunting, and greatly enjoys wit It will always listen to a maiden speech with interest and will soon make up its mind whether other speeches from the source are worth its while At the beginning of what promises to be a poor speech many members will leave the room for better entertainment Abuse, insincerity, irrelevance will cause annoyance, there is much coming and going, rustling of papers, raising of points of order amid which the orator can make little headway If he persists, the Speaker or chairman will call him to order, and in these conditions the debate is generally at a good level Few people read *Hansard*, but the leading newspapers have parliamentary correspondents who report such debates and committee meetings as they think will interest the public, and the B B C gives good time for parliamentary news Enough of the public follow the reports to keep members alert

A debate ends with a declaration of opinion by the house or with a division The Speaker puts the question for those in favor to say aye, those against, no Assuming a government success, he makes a quick count and announces that the ayes have it or the noes as the case may be If he is in doubt or if the opposition clamor "divide," he will grant a division, or formal record of vote [12]

## *CLOSURE*

The house cannot permit indefinite debate on all topics and must have closure rules At any time a member may arise and call for the question The Speaker need not approve, if he does, he will put the motion to a vote If the majority, including at least 100 members, favor the suggestion, he will stop the debate and let the house vote on the matter under discussion If the gov-

[11] Jennings, *op cit*, chap 12, Hemingford, *op cit*, pp 41-46

[12] The bells ring over the building to summon members from their haunts, the policemen in the lobbies call, "Division" The members stream into the house After two minutes the Speaker puts the question again Two tellers (whips) come forward from each side, the members go into lobbies, the ayes to that on the Speaker's right, the noes to that on his left Six minutes are allowed for late arrivals The doors are then locked for the count The members give their names to clerks for the record, and as they pass back into the house, the tellers count them and report to the Speaker, who announces the result The government will win, but the division lists will be published and will let everyone know who is at his post A member who has good reason for absence will arrange with the whips to pair off with a member of the other party, leaving the result of the voting unaffected

ernment has a bill going to the committee stage, it may by a vote of the house impose a timetable allotting a number of hours or minutes to each of the sections, which is called the guillotine If there is a mass of amendments, the house may permit the kangaroo the Speaker or chairman picks the amendments he considers of importance and ignores the rest Such curtailments of debate can be practiced only by a government sure of its majority

The house has powers of discipline The sergeant at arms attends the Speaker, keeps order in the building, executes orders of the house on unruly members and on outsiders called before it The house may punish nonmembers for disobedience to its orders or infringing its authority, e g , by intimidating witnesses The offender appears at the bar, led by the sergeant, and receives an admonition, a formal reprimand, or a commitment to jail until prorogation or dissolution [18] The house will suspend a member for willful disregard of its rules and will expel one for conviction of crime or bankruptcy If the undischarged felon, criminal, or bankrupt is reelected, the house will declare his leading opponent to be the proper representative of the constituency

The house is jealous of its authority, even if compelled to delegate some of it to departments to make rules and regulations Some of these have escaped the notice of Parliament, it not being clear when and how the regulations should be presented for approval During the war, twenty-three codes of fire service regulations of doubtful legality were never laid before Parliament, and in the end were covered by an act of indemnity In 1944 the Commons appointed a select committee, called the scrutinizing committee, to examine and report on departmental rules, regulations, and orders This committee has reported some orders as objectionable and has scared the departments into more caution A statutory instrument act of 1946 requires all such rules and orders to be printed with dates of operation and of appearance before the house If a rule is immediately effective, it must lie before the house forty days for examination Finally, the house is proud of its position as the great council of the realm and insists on knowing important news from the ministry first, i e , before the press—a practice which has caused dismay to enterprising reporters

The important dailies have parliamentary correspondents who observe proceedings from the press gallery These men obey a code and learn much which they will not disclose but of course write what they think the public wants to know The editor will trim the report to suit his ideas of that want and his space, and may turn out a skimpy account Generally, however, he will do his best by Parliament The official report is called *Hansard* and that for one day is in print by 10 A M of the next, free to members, at a small charge for the public There is also a *Journal*, a brief account of proceedings without the speeches, a record of business dealt with and decisions reached *Journal* and

[18] Actions have been brought against the sergeant to challenge penalties imposed by the house

*Hansard* are placed in the vote office, at which the member calls on his arrival at the house

## *PETITIONS*

Petitions are often sent to the House of Commons and sometimes to the Lords They used to be the chief way of urging the government to take some new course of action or deal with some grievance, and have a place in constitutional history Now these matters can be raised in a question or on the adjournment to better effect, and most petitions are for propaganda purposes and negligible To be received at all, they must comply with a set of rules to be had in the vote office and must be presented by a member The language must be temperate and respectful and may not refer to any debate in Parliament The member may simply place the petition in a bag hanging behind the Speaker's chair for the purpose If he thinks it worth notice, he will inform the Speaker and be called immediately after private business At that time he will read at least a summary, make a few remarks, and put the petition in the bag

These petitions, if in order, go to the committee on public petitions This body reports on the petitions from time to time, it may order printing and circulation of any deemed important The great majority are buried decently in the committee's files [14]

## *THE OPPOSITION*

In parliamentary tradition, the government is expected to govern and has the right of way for its proposals and policies But an important function of Parliament is to criticize the government, and this is the duty of the opposition, sometimes assisted by government supporters with strong feelings on a topic The opposition therefore have a set of benches, a shadow cabinet anxious to supplant the functioning cabinet, and a leader on a salary of £2000 on the Consolidated Fund to enable him to devote his time to opposing He and the shadow cabinet—with constant supervision by the party meeting if they are Laborites—decide their policies, put questions to the Prime Minister and other ministers, watch for trespasses on the rights of members, arrange the speeches on their side in debates They are sure of a chance to expound their point of view, they may have a division when they want it and may move a vote of censure on the government to expose its faults at length All these activities represent power which can be and has been used to obstruct government business But this is abnormal and against the rule of the game, the practice is criticism and waiting on events When the opposition become the government, they in turn will not want obstruction, and it is a poor regulation that does not work both ways [15]

[14] Hemingford, *op cit*, pp 90-91

[15] Jennings, *op cit*, chap 6

Frustrated members and persons hostile to the parliamentary system often decry the debates as mere acting, since speeches change few votes in the next division But this is too short a view Parliament does not live to itself, its debates are heard and policies felt in the country A bad policy, exposed as such in debate, may turn voters against the government at the next election Arguments may not affect votes in the house but they do affect votes in the country The opposition is appealing to a higher court, parliamentary debates have judges whose names are found in every voting register The government cannot sleep on its majority and cannot afford to be out-debated No member insecure in his seat feels that the proceedings are an act

Chapter 5

# *House of Commons: Speaker, Whips, Private Members*

## *SPEAKER*

THE contest of government and opposition is by the rules, the managers are the whips, the referee is the Speaker When a vacancy occurs in the chair, the government makes a choice, normally from those of its rank and file who have aroused no animosities, and it commonly consults the opposition in the hope of an acclamation Once chosen, the Speaker ceases communication with his party and becomes the embodiment of impartiality so far as in him lies He has no bell or gavel, he rises and all sit in silence He interprets the standing orders and administers regulations with regard to precedent He may call a member to order for irrelevance, repetition, or improper language or report him to the house for disobedience and procure an order of suspension His ruling may be appealed to the house but only on a formal motion placed on the agenda and considered when the heat of the matter has disappeared He has advice from the Speaker's counsel and the clerk of the Commons, and prayers from his chaplain [1]

Keeping order is only an occasional task, control of debate is his principal occupation He chooses the next speaker among the several competitors for the honor of catching his eye He gives the right of way to members of the front bench on either side, but apart from them, he is glad to know who wants to speak, from the whips or the would-be orators themselves, and will give them the benefit of the doubt He avoids persons who will merely echo

[1] The Speaker has £5000 a year free of taxes and a residence, is usually reelected until he dies or retires on a handsome pension of £4000 and to the Lords if he wishes, and in the interval is rarely opposed in his constituency In the Parliament buildings he moves in procession through the corridor to the call of "Speaker" and through the central lobby to the summons, "Hats off, strangers" For ceremonial purposes he is the Commons and represents the house at the bar of the Lords He wears a wig, a black gown, and court dress (waistcoat, velvet breeches, silk stockings, shoes with silver buckles) Alone of subjects, he holds levees where guests wear court dress He has a gilt coach and a lifeguardsman as escort

the ideas of others unless he needs them to tire the house out of a debate that ought to be finished, and he will often take a crank or a Communist in preference to a bore He has an eye for a maiden speaker and for the small groups in the house He is the champion of members' rights even against the government He votes only on a tie and then in the way which means least change

It is he who counts the house when attendance is low If there are not forty members in the house by 4 P M , he adjourns the house until next day After that, a member may ask for a count The Speaker tells a clerk to ring the bell and in two minutes proceeds to a count If the total is short of forty, he adjourns the house—the "counting-out" of common talk But the process does not apply to the dinner hour, 8 15 to 9 15 To relieve him, he has the chairman of committees (or ways and means) and the deputy of the latter, chosen by government and on salary voted annually The chairman may be changed with every Parliament, he and the deputy sever connections with the party and do not debate or vote

The Speaker has other duties He has much to do with choice of membership of some committees, he picks the panel of ten members who provide the chairmen of standing committees He issues warrants to fill vacancies in the house and administers reprimands The duties seem exacting but require only common sense and fairness, and many an obscure M P has won a national reputation as a Speaker through these qualities alone

### *CLERK*

The clerk of the house is a civil servant He has studied procedure long and minutely and advises the Speaker and all others on it He and the other clerks draft the proceedings for the journals and deal with the papers and accounts of the house, notices, questions, amendments He uses the assistants as deputies and ordinarily there are only two at the table He is head of the house staff, principal, senior and assistant clerks, all civil servants, appointed by the Speaker on his recommendation Some of these men are clerks of the public bill office, of the private bill office, of the vote office, of the journals, etc The duties are by no means formal, they require exact attention to detail and some administrative ability

### *WHIP*

The chief whip is parliamentary secretary to the Treasury but has little more to do with it than to draw his salary He has a large staff three paid lords commissioners of the Treasury and the three political officers of the royal household, the treasurer, comptroller, and vice-chamberlain He may ask private members for their gratuitous services and have ten or twelve persons to help him

The whips manage the party in the house The chief whip is the arm, eye, and ear of the Prime Minister He sees him every morning in session and ar-

ranges the week's program with him and with the opposition whip He and his staff must keep members within call for divisions to make sure that the majority party has a majority The difficulty arises chiefly on private members' days, Wednesdays and Fridays, and he must see that members of his party ballot for time on these days, to prevent the opposition from monopolizing proceedings If a member wins and can't think what to do with his time, the whip will supply ideas He and a minister will watch the resolutions and bills on these days to see that they do not reach stages embarrassing to the government Generally, divisions are taken at 10 45 P M , the whip may need to keep the debate going and will put up one or two long-winded members who can talk at any length on anything until the taxis bring the wanderers home after 10 30 P M If an unexpected division threatens, the whip must phone all over town and call members from clubs, theatres, restaurants, and firesides to save the prestige of the government

The whip keeps the members in good humor, reports discontent to the Prime Minister, and may even obtain a change of policy to insure party harmony A Conservative whip with a good majority may not mind an occasional cross-vote, i e , vote with the opposition, but if the habit develops, he will protest to the member and in the last resort inform the constituency association, who will refuse the man as candidate in the next election A Labour whip will not be so lenient, he will allow only an abstention under duress of conscience or of a sensitive constituency, and this after sanction of the party meeting The opposing whips negotiate with each other, arrange time for speeches and votes of censure, and manage pairing The whip is guide, philosopher, and friend to the rank and file of the party, adviser on party matters to the Prime Minister, and altogether a man for the ambitious to cultivate He will protest about an indiscreet speech or article in the press but is tactful and sympathetic rather than domineering [2]

The word *whip* is also used for the notice sent to each party member about business for the week An item not underlined indicates no special reason to be present for the vote Underlined once, it requests presence if no inconvenience is caused Underlined twice, it requires a great effort to be on hand Underlined three times, it orders attendance except for illness or sudden death—"the three-line whip" Occasionally the government "takes off the whips" and lets the members vote as they will on some matter not on its program but of public interest The members rejoice in their freedom and throng the chamber, knowing that argument will affect the result.

In the discussions, members address their speeches not to one another but to "Mr Speaker," to avoid direct argument and its tendency to acrimony They do not refer to other members by name but by constituency—"the

[2] Defiance of orders to vote for the bill on Ireland in May, 1949, cost their posts to five parliamentary private secretaries and brought letters of rebuke to sixty-three other Labour M P's

honorable member for so-and-so"—and minimize the personal element in their thinking A member of the cabinet or a privy councilor is a "right honorable gentleman" for this purpose, a lawyer is "honorable and learned," a soldier "honorable and gallant" A member may not read a speech, which would waste time and sacrifice relevance, he may refer to notes and documents He may not use offensive expressions or behave in an undignified way, and before leaving the house he must bow to the Speaker A member who breaks the rules provokes cries of "Order" and will be called to order by the Speaker If he defies the warning, the Speaker will name him and the Prime Minister will move to suspend him The house will agree, the member must leave or the sergeant at arms will remove him by force The suspension is usually for a few days and is lifted on apology, in extreme cases, e g , resistance by force, it may be for the session Otherwise, speech is absolutely free, a Communist may say his piece and a pacifist may oppose war even in wartime There is slight danger that either of these will change the views of any member of the house

Disturbances are rare and generally discussions move in a sporting spirit When a new M P makes a speech, someone on the other side will congratulate him and hope he will contribute frequently to the debates When the opposition elects a leader, the Prime Minister will make a speech of welcome to him When a minister makes his first speech, a member of the front opposition bench thanks him and offers good wishes Both sides laugh at a good joke and applaud a witty speech These practices damp bad feeling and keep debate a matter of reasoning Reformers are sometimes impatient with them as an obstruction to a great work which they have in mind but soon realize their indispensability in the art of self-government

## *THE PRIVATE MEMBER*

The worst equipment a member can bring to Parliament is a burning desire to distinguish himself and a foggy idea of how to do it He is likely to compose a speech to dazzle the house and to find that it falls flat on a hardened audience who have heard speakers and arguments on all possible political topics and who heartily dislike exhibitionism The classical instance is Disraeli, who launched into the Irish question in a maiden speech and was shouted down

If a private member has large ambitions, he will proceed in quite a different way He will make himself master of a topic in some department by studying until he knows more about it than anyone else except persons born to it He will ask the whip or the Speaker to put him on a standing committee which deals with his field Here he will have ample opportunity to air his views and may be able to modify some government measure If he gets the confidence of the committee, the battle is half won and word will get about that So-and-so is a good man on his topic He will ask for other work, e g , on a select committee, and if he discharges the duty well, he may begin to speak in the house

with hope of an attentive audience If he shows knowledge and a grasp of policy, he may hope to become parliamentary private secretary, undersecretary, and finally minister To go so far, however, he must be personally acceptable to the party and the Prime Minister To keep his place he needs administrative ability and a faculty for stroking the fur the right way

Most members do not expect high posts and want only to be reelected For this purpose, they should discharge their constituents' business, keep their names in the local papers, and try for a mention in the London press If an M P receives a complaint of a personal nature, like refusal of a pension, he will refer it first to the appropriate minister If it is of a political character, he may put down a question about it and if the answer is unsatisfactory may move adjournment on a matter of urgent importance to the public If he can get forty members to support him, he will have a debate on this topic and give it a good airing He can also bring it up on a motion for the evening or a long adjournment but must tell the minister concerned of his intention or he will find no one to take up his challenge and will have nothing better than an answer from the whip to the effect that he personally knows nothing whatever of the matter in question In theory, the member can make his point on a vote of supply, estimates, or appropriations, or on the reply to the King's speech, but will find the timetable so occupied by front-benchers of both sides that he might as well save his effort On the whole, a question is the best way to expose a grievance which can be laid at the door of government

## *PRIVATE MEMBERS' BILLS*

The government is aware of the need for publicity for private members and generally marks ten Wednesdays for their motions and thirteen Fridays for their bills, save for the war and postwar period, 1939-1948 There can never be time for all sponsors of motions and bills, and resort must be had to a ballot, taken at the beginning of each session The member writes his name on a card and puts it into a box, from which the clerk of the house draws an allotted number at random These motions and bills will be taken in the order of the ballot, and the sponsors are said to have won a turkey The whips encourage their men to take part, to avoid giving the other side a clear field [3]

Some winners are very sure of what they want, others have no notion at all and may take a friend's idea and let him second it or may apply to the

[3] A resolution is to the effect that something is wrong and something should be done about it The sponsor must get a seconder, and so may initiate a debate On a satisfactory reply from the minister, he may withdraw his motion, otherwise he will press for a vote

On January 18, 1949, the government sponsored a motion to set apart seven Fridays for the second reading of private members' bills As no ballot had occurred at the beginning of session, one was taken January 27

whip, who has a store of motions Motions from the government side are mere affirmations of the program in most cases and useless, those from the opposition are attacks on the government, which the party is making in the course of debate For this reason, motion day has often been called a waste of time and witnesses the most frequent countings-out Occasionally a topic of nonparty nature is discussed to advantage, and while the private members are letting off steam, the ministers can spend the day in their departments—except the watchdog, who sees that a motion injurious to his party is withdrawn, referred to a committee, defeated, or simply talked out Above all, on these Wednesdays it is easiest for a member to reach *Hansard* and, in their turn, the local papers, which may justify the arrangement

Often a member has a bill, all his own, for the benefit of the public and the glory of the division he has the honor to represent He must get it drafted at his own expense, which is considerable, for the lawyers who are parliamentary agents value their services highly It is useless to think of a bill requiring expenditure by government unless he can persuade a minister to support it with a financial resolution, in which case it is practically a government bill These cases are rare

Any member has the right to hand a bill to the table and get it printed and put on the order paper He may go no farther with it but will send a copy to the home papers to demonstrate his diligence in public service Under the ten-minutes' rule, on two days a week from 2 50 to 3 P M , having given notice on the order paper, he may ask leave to bring in a bill If the motion is granted, he presents the bill for a reading of the title, which will be taken as first reading if no one opposes If there is opposition, the Speaker will allow him to explain his bill briefly and the opponent to declare his objections, and will put the motion If the bill fails, there is an end of it for the present It may rouse enough interest to pass, and having had first reading, it will be printed

The member will put it down for the next free adjournment period at 11 P M and may get second reading without opposition The bill goes to a standing committee and, if still unopposed, may get report and third reading after 11 P M also But this rarely happens, any member may say "Object" and stop it There are always members who object on the principle that there is too much legislation as well as some who dislike the particular bill

Our member must now try to get second reading on one of the Fridays allotted to private members, and he must have already balloted for the opportunity at the beginning of session or find someone who has won a turkey and does not know what to do with it and is willing to sponsor the bill, letting its author second it The competition is severe, for many members are working for economic groups, professional and welfare associations and have bills to the taste of their backers Accordingly, it is much harder to win a turkey on a Friday than a Wednesday, and even the winner may find that his

bird has done him little good, as not more than two bills are likely to be taken up on a Friday and the two are unlikely to include his There are other hazards, a minister is in attendance and can put the whips on if he dislikes a bill or simply get it talked out unless it is first on the list A prime requisite, therefore, is the government's *blessing* or neutrality In addition, the house is thin on Fridays, many members are in their constituencies to address meetings Friday night, the best night of the week for the purpose A member must do his own whipping and persuade forty others to remain in the house If his bill passes, it goes to a standing committee and may never get on the agenda, there being many others ahead of it It is possible, however, that at this stage the government may discover some merit in the bill and take a hand with it If the bill can pass committee, it will find report and third reading easy and will go to the Lords, where someone must sponsor it In the session 1924-1929, private members introduced 430 bills, of which about sixty passed The way is rough but not altogether hopeless

Many members want to take part in debates on government bills to impress the home folks with their indispensability, and it is they who make the complaints that private members get no chance to speak If they are unlikely to say anything that other people have not said, they do find this difficulty, the Speaker's eye passes continually over them to more original souls They can wait for the dinner hour when the conspicuous contestants will be engaged with knife and fork, and take their chance along with others who forgo the pleasures of the table in order to speak for the sake of speaking Or they can put their names down with the whips to fill in time in emergencies and hold off divisions With perseverance and constant attendance, even a member of this type can place himself on *Hansard* in the cause of reelection and the good of the local party He must actually talk in the house and may not imitate his American colleague, who may put into the *Congressional Record* an oration, like Cicero's *Pro Milone* composed after the event It is something to have addressed the House of Commons, though the public weal may be little advanced thereby

There is still another way in which the private member may win favor with his colleagues He may join one of the many discussion groups or committees, as they are called, which meet simply to talk over some problem Being mere private associations, they may invite a minister or a lord to address them and by their arguments face to face may actually influence their guest Activity and success in these groups may well lead to greater things, and in short, the house can be a career for talent that takes the right way [4]

[4] Speaker and whips are described in W I Jennings, *Parliament* (London, 1939), chap 3, in S Gordon, *Our Parliament* (London, 1945), pp 73-84, and in Lord Hemingford *What Parliament Is and Does* (New York, 1948), pp 14-18, 79-80 The last book, pp 19-20, describes the clerks Private members have their due from Jennings, *op cit*, chap 10, and Hemingford, *op cit*, pp 39-41

# Chapter 6

# *House of Lords*

## *PERSONNEL*

THE UPPER HOUSE is a venerable body with a history continuous from the great council of the Norman Kings It contains lords spiritual and lords temporal The lords spiritual are the Archbishops of Canterbury and York and twenty-four bishops, they hold their seats only while they remain bishops and do not pass them to their sons They are often men of eminence and learning and take a notable part in discussions The lords temporal fall into several groups (1) Princes of the royal blood who do not sit lest they bring the royal family into controversy (2) Peers of England and of the United Kingdom, 681 in number in 1936, who are all hereditary and capable of sitting if they are over twenty-one and sound of mind, conduct, and finance The order of precedence is dukes, marquises, earls, viscounts, and barons, but in debate and voting, one is as good as another (3) Sixteen representative peers who are elected at the beginning of each Parliament by the holders of Scottish peerages, i e , those in existence at the time of the union with England in 1707 In 1936 there were thirty-seven such peers, including six women No new peerages of this sort can be created, from time to time, a Scottish peer gets a United Kingdom peerage and is out of the group, which is diminishing Little interest is taken in the election, the same peers are usually reelected (4) Up to twenty-eight representatives of the Irish peerage who are elected for life No further elections take place since the formation of southern Ireland as a separate state, and the group will eventually die away Seven were left in 1949 and may get United Kingdom peerages (5) Not more than nine law lords, distinguished lawyers on salary with nonhereditary baronages for life, who sit in the house and perform its judicial duties The officers of the house include the clerk of the Parliaments, who keeps records, the Gentleman-Usher of the Black Rod, and the sergeant at arms, who attends the Chancellor The clerk of the Parliament and his assistants sit at the table Black Rod is the policeman of the house and has a deputy, the Yeoman Usher

Few of the peers can claim a high family tree Of the 681 peers by hereditary title in October, 1936, sixteen had titles created before 1485, forty-seven before 1689 Most of the others owe their enrollment to the last century and have no traditions, 265 had titles created since 1906 In February, 1948, there were 3 peers of the blood royal, 26 bishops and archbishops, 21 dukes, 27 marquises, 133 earls, 94 viscounts, 507 barons, 9 law lords, 16 Scots, and 8 Irish, the total including 26 minor peers who did not sit

A few baronies by writ survive from the Middle Ages, a writ of summons followed by attendance created a hereditary right to attend, which descends to females in default of males Occasionally a woman is entitled to a peerage by special grant or a special limitation of the patent, and in 1948 there were in all twenty-four peeresses in their own right But the lords are not feminists and have kept the ladies out until 1950, though they may change their minds The great majority of peerages are by letters patent and descend to males only Peers convicted of bankruptcy, treason, or felony may not sit, peers who wish to divest themselves of the honor may do so only by private act of Parliament The Lord Chancellor issues writs of summons to qualified persons, if he fails to do so, an applicant may send a petition to the King through the Home Secretary He will refer it to the Attorney General for a report and, if there still is doubt, to the Lords' committee on privileges

Recruits to the house earn the honor by allegation of public service and expect to see their names in the lists of honors issued in the King's name on his birthday and on New Year's Day The honors are of several sorts and include peerages Some of the new lords are men with a name in politics, perhaps cabinet ministers, and are placed on the shelf at their own request, a few have distinction in the foreign or imperial service, the armed or civil services, or the learned professions All this requires intellectual effort and is beyond many aspirants The easiest way, for one who had money, used to be a donation to party funds, and for many years peerages were obtained freely—bought and sold, to use the vulgar expression Prime Minister David Lloyd George built up a large fund for the Liberals in his short term of office by this means To his opponents it was a scandal, and no one may now openly offer to buy or sell a peerage and a committee of the Privy Council passes on the list of honors

Aspirants, however, are not to be thwarted thus, they give unobtrusively to the party and obtrusively to a university or hospital This satisfies the requirement of public service and comes cheap as things go, being deductible from income tax The institution benefits, the party fund swells, the man has a title, and all is well He must also hold a parcel of land somewhere on which to anchor his title, but this is easy to arrange The net effect, accordingly, of the new regulations is simply to raise the price of the title Having had value for his money, the new peer does not try to bargain about policy

and is no menace to the public interest The Labour government does not sell titles, it sends a few faithful followers to the Lords to keep a showing and makes some nonpolitical choices on merit

The house was for many years the haunt of a great landed aristocracy About fifty years ago, dukes on the average held nearly 150,000 acres, marquises nearly 50,000, earls about 30,000, viscounts over 15,000, and barons 14,000 odd These holdings have shrunk greatly The premier landholder is the Duke of Sutherland, who succeeded to the title in 1913 Then he had 1,350,000 acres, in 1949 he had 350,000 Death duties are confiscatory on large estates and seem likely to extinguish them [1]

As yet, most of the lords have their livings from landholding, a fair number from commerce or industry The great majority do not attend at all, they feel no competence or no need for the duty, as there is always a safe Conservative majority From fifty to a hundred are present in an ordinary session, the average division between the wars showed eighty-three voting In exceptional circumstances, 200 may be present, and over the question of the Book of Common Prayer in 1927, 329 made their way to the house The quorum is three and the house can hardly be counted out

## *DAILY WORK*

The Lord Chancellor presides, sitting uncomfortably on the woolsack, a large hassock covered with red leather and stuffed with wool from all parts of the empire in honor of England's traditional industry The woolsack is in front of the empty throne, the Lord Chancellor is in wig, court dress, and gown As in the Commons, there is a table at which sit the clerk of the Parliaments and his assistants Robes are worn only on state occasions, ordinary wear is correct at other times The bar, as has been mentioned, is a large box to hold 150 persons, in which the commoners hear the speech from the throne

The Lord Chancellor is a chairman, not a speaker as in the Commons, and does not control debate, indeed, he takes part in it himself as a member of the government The noble lords do not address their speeches to him but to each other; and when one sits down, several may arise to speak The house itself decides by vote whom it will hear but seldom needs to do so, as all will have their turns in such a small group The lords may overrule their speaker forthwith on any issue of their proceedings and do not need a formal motion of appeal from his ruling The lord chairman of committees is his deputy and has charge of private business Failing him, the Lords elect a speaker themselves The house itself keeps order, any peer may move that the orator be no longer heard and press the matter to a vote There are no salaries or allowances, merely free railway travel

The Lords work much less strenuously than the Commons. They rarely

[1] *Canadian Press*, April 18, 1949

sit more than three hours at a time, 4 to 7 P M , and finish by dinner, some leave much earlier They debate motions and help to enact laws They rarely ask questions of ministers and accomplish the same end in other ways, a peer asks for papers on some topic, hears the minister's reply and the ensuing discussion, and withdraws his motion There are no standing committees, committees of supply or of ways and means, there may be committees of the whole house and select committees Often the Lords are short of material to work on, as the government wants to start bills on finance or important policy in the Commons The peers accordingly get the technical noncontroversial bills at the beginning of session, consider them in a leisurely fashion, and have a mass of bills and answers of the Commons to their amendments in the last week of session They can take private bills before the Commons and so relieve the pressure on that body The main work is done by peers of the first generation, often men of experience, and the debates occasionally reach a high level There are no speeches to impress constituents, bores are usually absent or dumb The infrequent silly speech is likely to be made by the witless scion of an old house or a member who has just paid cash down for his title and feels inspired to oratory by it Usually there is no formal division, the sense of the house being apparent and not mattering much anyway in view of the predominance of the Commons The house does not practice the closure, an exception in 1926 being taken as no precedent It has standing orders of its own, its members have the privilege of free speech and freedom from arrest except for treason, felony, or breach of the peace These apply only during session and the journeys to and from and include servants Like the Commons, the Lords can commit anyone for contempt

## *RESTRICTION OF POWERS*

For some time after the formation of the two houses of Parliament in the fourteenth century the Lords had equal power with the Commons In the fifteenth century the Commons declared that they, who paid the bulk of the taxes, should have their way in financial matters and won their point When the cabinet developed, its head saw that he had ultimate power over the Lords through the creation of new peers by the royal prerogative and on one occasion actually packed the house (1712) Later he had his way by threat of packing (1832, 1911) In the latter year, a Parliament Act greatly reduced the power of the Lords (1) Any measure certified by the Speaker of the Commons as a money bill goes directly to the King for his signature and may become law one month after passage, the Lords having no chance to express an opinion (2) Any other public bill passed by the Commons three times in three successive sessions occupying at least two years becomes law in similar fashion despite rejection by the Lords (3) The life of the House of Commons became five years instead of seven, as it had been since 1717 This act made the Commons supreme and left the Lords a delaying power of two years

and an amending power by no means negligible It does not apply to private bills, to confirmation of provisional orders, which is a variation of the private bill, or to bills to extend the duration of Parliament over five years

## *FAULTS AND PROPOSED CHANGES*

Much fault can be found with the Lords in theory, most of them confess incompetence by never attending and pass this disqualification to their sons A chamber composed of persons who are not there is an absurdity On the other side it is argued that the members who do attend are men of intellect and experience and make up for the faults of the absentees Theoretical discussions do not interest the British public much, however, and prevalent irritation with the Lords arises solely from the fact that they are by great majority Conservative and give their party permanent control of one branch of the legislative If by accident the attenders are in danger of taking a Liberal or Labour view, enough "backwoodsmen" can always be summoned from their country homes to correct this aberration Of 746 members in 1936, 543 supported the predominantly Conservative government, 56 were Liberal, 16 Labour, and the rest professed independence or indifference No bill promoted by a Conservative government has been rejected in the Lords since 1832 Except money bills, nothing can pass Parliament unless it has the consent of the Conservative party, whether in office or opposition The Lords do not reject all Liberal or Labour legislation, as this would bring about their downfall, they merely claim a discretion to reject such bills as are unwise or unsupported by public opinion Thereby they assume to know wisdom and opinion better than government and Commons The claim would not be acceptable in any case and is particularly unwelcome when the wisdom and opinion are Conservative, as they invariably are Rather than reject a bill, the Lords may amend it against its spirit and intentions, in the hope that the government will drop it rather than go to the trouble of invoking the Parliament Act

For these reasons there has been much debate about ending or mending the House of Lords but to this date no conclusion The problem is, what is to take its place? If nothing, the legislature would consist of one chamber only, to which there are serious objections If the Lords became an elective or partly elective body, they would promptly demand equality with the Commons, which these would dislike Not being a federal state, the United Kingdom cannot make over the Lords in the image of the Senate of the United States, even if the Commons should permit What is wanted is a house strong enough for revision and weak enough to be no rival to the Commons And what is better than the present chamber?

The problem of an alternative is the chief obstacle to change and leaves the people to bear the ills they have rather than fly to others that they wot not of The Lords do not use their delaying power much, they do useful

work of checking and revision and relieve the lower house of some work by starting about a third of the bills which come before Parliament By the Parliament Act of 1947, the Labour government proposes to reduce the delaying power to one year, and will pass it, barring an election in favor of the Conservatives They were, in fact, relieved when the Lords rejected the bill to abolish capital punishment, sent up by an unmanageable house The minimum change would be to require the 700-odd hereditary peers to elect 200 of their number at the beginning of each session to do the duty for them, and to add 250-300 appointees from lists furnished by the learned and professional organizations and local councils for the same term, and to pay them all The second group might have titles, but not seats for life At any rate, the field is wide open for suggestions from anyone with a fancy for the work [2]

[2] W 1 Jennings, *Parliament* (London, 1939), chap 11, and *British Constitution* (New York, 1941), chap 4, A B Keith, *The Constitution of England from Queen Victoria to George VI* (New York, 1940), vol 1, chaps 9, 10, H R Greaves, *British Constitution* (New York, 1938), chap 3, Wilfrid Harrison, *The Government of Britain* (London, 1948), chap 5, Lord Hemingford, *What Parliament Is and Does* (New York, 1948), pp 24-26

# Chapter 7

# The King

## *POLITICAL DUTIES*

IN SPITE of the fame of Parliament and Prime Minister, the King is the feature of British public life best known to the world at large He belongs to a family which can trace itself back to the Kings of Wessex before Alfred with effort, deviations, and the use of female instead of male ancestors at points The rule of succession is heredity, subject to modification by the chief assembly of the country This has long been Parliament, which made the last change of line in 1688 and of ruler in 1936 George VI is King by grace of God in his official style and by act of Parliament, 1936, though the fact is omitted from the title It appears in the oath to His Majesty, his heirs, and successors as by law appointed and is well emphasized in all comments on the subject

In essence, the King represents the national life in its enduring aspects The toast "The King" and the anthem "God Save the King" express the patriotism of Britons wherever they happen to be The King has a part in public life but not in controversy, and can share in ceremony only He conducts high social functions and sets the tone for society, and he should live in such a way as to maintain the respect of his peoples

Officially he retains his traditional position as head of the executive, but can exercise the power only through ministers He invites a man to be Prime Minister, who submits a list of other ministers for approval and so forms a cabinet But he can invite only the leader of the party which has a majority in the house of commons or can muster majority support Ordinarily there is no doubt who the man is, but it is possible for a Prime Minister to die or retire without indicating a successor In 1923 Andrew Bonar Law resigned from the prime ministership and leadership of the Conservative party and left everything in the air George V could find no outstanding Conservative and had a difficult problem on his hands He consulted several prominent members of the party and finally summoned Stanley Baldwin, who was a dark horse The party accepted the choice and business went on as usual This is

more likely to happen with the Conservative party than the Laborites, who attend carefully to their meetings and their organization But no party is proof against lapse into chaos, and the King stands by to keep the ship of state in motion

The Prime Minister, once in office, presents his list of fellow ministers The King looks it over and may make objections or suggest additions The Prime Minister may agree with some of these changes or insist on the list as it stands, in which case the King will sign, and by a convention of politics, the Prime Minister will never let the king's opinion be known The ministers must execute existing laws, frame new laws and policies, and make important appointments, and they need the King's signature for the documents involved Here he has an opportunity to present objections, and if he has good reasons he will in all probability see them heeded His influence depends on his intelligence and his knowledge of state affairs, and this again on the time and effort he is willing to devote to government business He sees the minutes of cabinet meetings and the "daily print" of dispatches from the Foreign Office and can follow parliamentary debates in the press and the official reports He can call in the ministers and foreign service personnel whenever he likes He has his own secretary and staff to provide information, and if he desires, he can keep himself better informed on many topics than he ministers It is in their later years that Kings and Queens are likely to have most influence, like Victoria and George V In all these respects, the King may be compared to a wife who manages much or little of her husband's affairs according to her abilities and tastes Some matters the Prime Ministers often leave to the King, e g , promotion of a royal chaplain to a bishopric

On paper, the King has a long list of political duties He has the right to summon the House of Commons, prorogue it at the end of session, and dissolve it for an election He summons and prorogues the House of Lords and may add indefinitely to its numbers He grants honors to individuals He is the source of justice and prosecutor of criminals, the case of a murderer is known as Rex *vs* Strangler He can break off a trial at any time or pardon a convict on whatever terms he likes He is head of the armed forces and of the church But in all these respects he merely furnishes his name to the action of appropriate ministers and officials For every act of his a minister is responsible and must sign If the act is unwise or illegal, the minister takes the blame If in spite of theory the King makes himself impossible, he is removed by an act of abdication which he signs like everything else If he is seriously ill or not of age or out of the realm, the government appoints a regent or council of regency to perform his duties The King and the crown are separate in the popular mind, the King is a person, the crown an institution, the royal power exercised in his name by ministers Nobody toasts the crown or prays God to save it

## *RELIGION*

In religion, the King is an Anglican, head in theory of the Church of England, and at his coronation he swears to maintain the rights of that church and makes a Protestant declaration. By the Bill of Rights, he may not be or marry a Roman Catholic. When he crosses the Scots border, he becomes a member of the Church of Scotland and so is an Anglican Presbyterian and an example of the free intercommunion desired by advocates of church unity. He is defender of the faith, a title bestowed on Henry VIII by Pope Leo X for his pamphlet against Luther, but has not engaged in literary business of this sort since the time of James I.

As he stands in so many ways for the nation, all groups try to support his prestige. Ministers and other high officials know his personal views on political questions but agree together to keep them out of print; and only after his death do they let the public know what he thought about leading persons and policies. Even his indiscretions are hushed in the hope that he may commit no more, as in the case of Edward VII, who did not justify the leniency. If, like Edward VIII, he commits a glaring error, he provokes deep resentment at the abuse of his position and must retire in favor of someone who can fill the role. Public sentiment gathers about the new King; and George VI has as strong a hold on the esteem of the people as his father did.

## *SOCIAL DUTIES*

The King moves everywhere in a blaze of light with a crowd of reporters and photographers. He opens hospitals, libraries, town halls, lays foundation stones and speaks on these occasions, and at other times uses the radio. He says practically nothing and makes it sound like something, with the advice and concurrence of his ministers. He has four chief places of residence: Buckingham Palace in London, Windsor Palace up the Thames, Balmoral in the Highlands, Sandringham in Norfolk. A common routine is Windsor in winter, Buckingham in spring, Balmoral in late summer, Sandringham in the autumn.

The most important functions are at Buckingham during the London season (April to July) while Parliament is still sitting. At this time, the King and Queen hold court for debutantes and other ladies to be presented to them. They stand on a platform in the presence chamber of the palace for the ceremony. The young women—as most of them are—have applied to the Lord Chamberlain for a command and given the names of sponsors, married ladies who have already been presented. If the Lord Chamberlain is satisfied, he sends the command. On the great evening, the girls in their best make-up and new white dresses, trains, and plumes move one by one to the platform, pass in front, curtsy to Their Majesties—once to each—note the smiles and

the nods of the heads, and pass to their escorts in another room and to refreshments provided by the King and Queen, happy at their entry to society and their eligibility to appear at subsequent royal functions The ladies have these courts to themselves, the men have the levees in St James's Palace at noon They apply also to the Lord Chamberlain and obtain cards if they have clear personal records and sponsors who have been presented They appear in a variety of dress and uniform, pass in front of the King, who is alone, bow and receive smiles and bows in return, and proceed to a buffet lunch, presumably pleased with the forthcoming acceptance of the social world

Another social function is the holding of garden parties at Buckingham The Lord Chamberlain sends commands, the commanded persons appear, and have tea and music while the King and Queen, attended by the gentlemen in waiting, stroll about and address a few words to as many of the guests as they can Sometimes there are state dinners to ministers and other personages and royal speeches to go with them All these affairs have a political importance, the guests are chosen with care and impartiality among the groups interested The King and Queen are more at ease when they attend Ascot or Epsom for the races or the opening of the Royal Academy with a few intimates Their movements are chronicled by the court newsman in the court circular which is given to the papers every night, and faithfully reflected in the *Times*

Balmoral is the summer resort and a discharge of royal duty toward Scotland Probably the royal family are most at home at Sandringham on an estate of 7000 acres, 1000 of which are farmed Here the King plays the role of a country squire, competes for prizes in the agricultural shows, shoots pheasants and woodcock, and has time to himself, Parliament being in recess and ministers on their holidays The meeting of Parliament in November may require a return to Buckingham or Windsor and the resumption of business, but it is possible to spend Christmas at Sandringham again

## *FINANCE*

The King has property of his own in accumulated securities and household goods, in the revenues of the duchies of Cornwall and Lancaster, and in a salary, the *civil list*, granted by Parliament at the beginning of each reign and occasionally increased, at present it is about £400,000 This takes the place of extensive crown lands entrusted to the nation in 1760 and now managed by a commission The lands in Cornwall and Lancaster were retained, those in Cornwall are usually assigned to the Prince of Wales for his use, if there is such a prince The duchy of Lancaster is managed by a council of which the chancellor of the duchy is head He is often a cabinet member but has pay from the duchy and a little work, chiefly about the

public offices there, and can spend most of his time as a handyman for the cabinet

The King's income suffices for his ordinary and court expenses, for some members of the royal family, and for pensions to members of the household and bounties to deserving subjects like those who have more than two children at a birth As his children grow, Parliament may make additional grants to them and may help with the pensions, to a possible royal total of £650,000 The King has more than enough for current use and may not waste it for fear of adverse comment He cannot but save and in the course of generations has accumulated a large personal fortune, though not as much as some of his subjects

He naturally makes friends among the wealthy but must not let them monopolize him and must cultivate all sorts and conditions of men He may please himself in choice of a wife if she meets the requirements of the law and public opinion and has an unimpaired character and no trail of ex-husbands The Queen Consort has no official part in the government but is an object of great public interest and must submit to the same sort of supervision as he Other leading members of the royal family are under restraint of this kind

## *HOUSEHOLD*

In the royal household there are political and nonpolitical officers The political are the treasurer, comptroller, and vice-chamberlain, they have nominal duties with the household and serve in Parliament as whips for the Prime Minister, who appoints them On the nonpolitical side, most publicity goes to the Lord Chamberlain, who manages courts, levees, garden parties, etc., and has the odd duty of licensing plays although he may soon lose it For the purpose he appoints an examiner of plays and usually accepts the report, he has nothing to do with films, which fall to local governing authorities The Master of the Horse attends to horses, carriages, and coachmen and permits visitors to see the horses in the mews of Buckingham on stated days The Lord Steward looks to the interior economy of the household The most important officer is the King's secretary, who prepares documents for the King to read and sign and passes to him the papers from the ministry He manages a large correspondence, including communications from the dominions, and needs knowledge, discretion, ability in diplomacy The King has two military members of the household—the captain of the honorable corps of gentlemen at arms and the captain of the King's bodyguard of the yeomen of the guard—and six lords in waiting All the officers of the household are peers of the realm except the politicals The King has a college of chaplains, a medical household, and hundreds of servants and grooms

## *PRIVILEGES*

He has privileges, he is immune from suits and actions but can sue, like a trade union He does not appear as witness in court or serve on a jury, he may consent to defend an action He may buy from his subjects but not rent, as no man may be landlord to the King He pays no income tax on the civil list and no rates on the palaces, which are state property (Buckingham, Windsor, St James's), but pays taxes on other income and rates on his private property He sends letters and telegrams free, has no license for his cars and no speed limit for them He pays for the royal box in a theater and may arrange a command performance, i e , let the Lord Chamberlain command a distinguished actor to do his piece on a particular night, which will make the entertainment a high social function He may in theory take a walk in Piccadilly but in practice will not, to avoid the massing of a crowd to watch him Under an act of 1772 he must approve marriages of all descendants of George II except those married in foreign lands and so can prevent unsuitable unions among his relatives He controls any of their doings which might bear a political meaning and is head of the royal family in a real sense

The King is head of each self-governing dominion as he is of the United Kingdom and is represented by a governor general, who is approved by the cabinets of both countries He no doubt makes comments on dominion policies and affairs but is shielded by the same sort of secrecy as surrounds his opinions on the politics of the United Kingdom It is a fair guess that his influence is less in the dominions, as he knows less of their affairs Of late he has undertaken journeys to Canada and South Africa and will visit other dominions He will probably make the rounds of them in future and may even live there for part of the year He is a link of empire, in fact its chief visible bond, and symbolizes its unity India stands apart from these arrangements and has not made its relation to the King clear

The King is in a peculiar position He may do very little without the approval of some minister He must endure the limelight of publicity and make no false moves or careless remarks He must go through long ceremonies with a show of interest and be cordial to persons who may be utterly uncongenial He must be informal and friendly but retain his dignity He ought to be a model of propriety, a good husband and father, a steady churchgoer, a careful manager of his property and income, he may make a display on traditional occasions only He need not be brilliant or original, if he were, he would probably feel uncomfortable in his position and might cause a constitutional crisis The royal family are the nation's pet human beings, in whom all sorts of people take pride The King is a symbol of patriotism, there can be cheers for him as the embodiment of his country and all manner

of faultfinding with the government for its policies Republicanism is a curiosity and has a flavor of antiquarianism, the few who attack the kingship, like Communists, merely add to their own unpopularity and increase the regard of the nation for the institution [1]

[1] The King's political duties are recited at length in A B Keith, *The Constitution of England from Queen Victoria to George VI* (New York, 1940), vol 1, chaps 2 and 3, and *The King and the Imperial Crown* (New York, 1936), more conveniently in W I Jennings, *British Constitution* (New York, 1941), chap 5, and *Cabinet Government* (New York, 1936), chap 11, and in Michael MacDonagh, *The English King* (London, 1929), pp 183-201 MacDonagh has the King s private life and social duties (pp 261-307)

# Chapter 8

# The Executive

THE KING has always had a council—in Tudor and Stuart times a select group of heads of departments and household officials called the Privy Council In theory this was a body of impartial experts, and it was irreconcilable with the party system of Restoration and revolution times A small group called the cabinet emerged, representing the party dominant in the Commons It needed a presiding officer, who by accident turned out to be the First Lord of the Treasury Thus arose the office of Prime Minister and First Lord of the Treasury The cabinet now is a group of important ministers, concerned with general policies Nearly all of the members have departments to manage and share in general discussions What one department does often affects the others and requires a cabinet meeting to maintain harmony, at which the members settle general and some departmental policies

## *PRIME MINISTER*

The Prime Minister, successful at elections, proceeds to form his cabinet He has not nearly so free a hand as the President of the United States, he must take most of the prominent party members and appease those whom he leaves out He cannot place them exactly where he wants them but makes allowance for their preferences and temperaments He may find one or two not fit for the work and secure their resignations, and conversely he may discover a rank-and-file member with ability and promote him to cabinet rank The possibility of these cabinet shuffles needs constant attention The Prime Minister must keep an eye on the party and see that it is satisfied He cannot forget the electorate and must make speeches which are in effect reports to the nation at intervals He must have some idea what is going on in the departments and will keep in close touch with important heads

The Prime Minister is the chief adviser of the crown and wields many of its lapsed powers He is the principal member of the cabinet and can change its personnel within limits allowed by the party He is the chief member of Parliament, controls the majority party, and is "leader of the Commons," though he may often pass this duty to another minister as

deputy He manages legislative and executive action, subject to the approval of the party and, in the last analysis, of the voters He serves three masters the King, the party, the country, he manages cabinet, party, house, and administration He need not trouble much about social functions, he can trust the King to attend to the ceremonies and delegate a minister to the dinners and receptions He will appear at such affairs only when he intends some party or national advantage from them He lives at 10 Downing Street and has a country house, Chequers

He dispenses a great patronage—the granting of honors, including titles, the appointment of bishops, ambassadors, judges, chief officials of permanent commissions and boards and public corporations, governors of colonies, heads of the armed services Some other person may be the source of the nomination, but he has the responsibility He is the chairman of the cabinet, controls its agenda, accepts or rejects proposals of members about it, and may add items without consulting anybody He is chief coordinator of departmental policies and ought to know what the national interest demands over a long period of time, he is a trustee for the future In this work he may form an inner cabinet of important members like the Chancellor of the Exchequer and the Lord Chancellor, one or two friends whose judgment he values, and members with nominal duties like the Lord Privy Seal, and with them he may form a general policy to be submitted to the cabinet He has a special responsibility in foreign affairs and must often make decisions of the highest importance with the advice of the secretary of that department alone He must remember to coordinate foreign policy with policies of defense and trade

For the house, he directs the party whips and arranges the agenda He has the supreme power of dissolution and holds in his hand the fate of members on both sides of the house For the country, he is the cynosure of all eyes, the press and radio make his features and voice familiar to all, gossip tells his personal habits If he wins an election, and still more if he wins two, the party gives him hero worship and regards public criticism from within as a kind of disloyalty In time of emergency he may become a national figure of the first magnitude

He ought to have the moral and intellectual qualifications of leadership, he should inspire trust in his colleagues, the party, and the country He should be a good judge of character in using his patronage and choosing his colleagues and a good judge of public opinion to win the elections In cabinet and Commons he will persuade rather than impose, in the house he will give the opposition its due and will catch the sense of the house when concessions are necessary In the country he should be a good public speaker, avoiding oratory, relying on wit and persuasiveness Needless to say, all these qualities are never found in one man, but most of them are requirements for the successful Prime Minister most of the time

## *CABINET*

In the period between the wars, the membership of the cabinet was nearly stable and included Prime Minister, Lord President of the (Privy) Council, Lord Chancellor, Lord Privy Seal, Chancellor of the Exchequer, seven Secretaries of State—for Foreign Affairs, Home Affairs, Dominions, Colonies, Scotland, War, and Air—the First Lord of the Admiralty, the president of the Board of Trade, the president of the Board of Education, the Minister of Labor, the Minister of Agriculture and Fisheries, the Minister of Transport, the first commissioner of works, the chancellor of the duchy of Lancaster, and perhaps a minister without portfolio—to a total of twenty-one Changes took place in the second war and the period of reconstruction, and the list of November, 1948, shows Prime Minister, Lord President of the Council and leader of the Commons, Chancellor of the Exchequer, chancellor of the duchy of Lancaster, Lord Privy Seal and paymaster general, Lord Chancellor, Secretaries of State for Foreign Affairs, Colonies, Commonwealth Relations, Home Department, Scotland, Ministers of Defense, Labor and National Service, Health, Agriculture and Fisheries, Education, president of the Board of Trade—to a total of seventeen Changes are easier than in former times, a Ministers of the Crown Transfer Act, 1946, allows a department to be dissolved and its functions transferred by order in council instead of by statute

Ministers not in the cabinet in November, 1948, included First Lord of the Admiralty, Secretaries of State for War and Air, Postmaster General, Ministers of Transport, Food, Town and Country Planning, National Insurance, Supply, Fuel and Power, Civil Aviation, Works, Pensions, and two ministers of state, one for colonial affairs, one for any duty—to a total of fifteen [1] The ministries of state are an experiment of uncertain duration, the Ministry of Food depends on the continuance of rationing, and the list is in flux There are thirty-odd junior ministers, undersecretaries, parliamentary private secretaries, financial secretaries, and the like Any of the non-cabinet men may attend a meeting of the cabinet when asked

The word *cabinet* means a group of men, members of either house of Parliament and privy councilors, who are the responsible executive under the Prime Minister as chairman The ministry may mean the cabinet or all the ministers, in and out of it The administration ought to mean all the office-bearers, cabinet, other ministers, and junior ministers but is often used as equivalent to cabinet The word *government* is also used to mean cabinet, ministry, administration, or, loosely, the majority party in the Commons The term *war cabinet* refers to a special inner group formed to conduct the war and taking priority over other members, in 1918 it consisted of the Prime Minister and five others, in 1939-1945 it was the Prime

[1] *Postwar Britain, 1948-49*, pp. 179-180

Minister and from five to eight others Like a coalition, a war cabinet is a necessary evil, to be dispensed with promptly on close of hostilities

The names of the departments contain some matters of antiquarian interest The oldest office was Secretary of State and has been divided many times, as is obvious from the above lists Each Secretary of State has an undersecretary in Parliament The first lordships are more recent than the secretaryships, the presidencies are newest and tend to become ministerships such as health, education, agriculture and fisheries These ministers have parliamentary private secretaries, and one or two have financial secretaries also in Parliament The Lord President of the Council has some formal work but is principally a coordinator of scientific research and information and of course depends greatly on advice The Lord Privy Seal once issued money from the exchequer and affixed the great seal to letters patent but lost these duties in 1884 The chancellor of the duchy of Lancaster nominally represents the crown in the management of crown lands and the courts of the county palatine of Lancaster, but has only a few formalities to discharge, the work being done by a vice-chancellor and other officials These three men may do committee work and have special projects, so also may a minister without portfolio or department

The paymaster general is the official through whose hands the money for the armed and civil services is passed, but he has lost all the work to the Treasury and the departments concerned and is available for odd jobs The names of these offices have meant nothing for many a year but have never been changed, though little can now be said in their favor All ministers are paid, the Prime Minister gets £10,000 a year and a pension of £2000, the cabinet ministers £5000, the others £3000 except the Minister of Pensions, worth only £2000 a year They go out of office collectively by resignation on a defeat at the polls or an imminent defeat in the house In the latter case, they will dissolve if they think they can win an election, but need not If the Prime Minister resigns, the others do not automatically follow the example, but the new Prime Minister will probably make changes The cabinet has three main functions, to determine policies and new legislation, to control the executive, to coordinate the departments

The cabinet meets commonly twice a week during session of Parliament, once a week out of it or possibly not at all for a month during the autumn recess, which is the time for holidays It is not tied to any one place but gathers ordinarily in 10 Downing Street in a room furnished with mahogany around a table covered with a blue cloth The Prime Minister sits midway down the long side of the table with his back to the fireplace and presumably has priority of warmth Until 1916 there was no secretary, the Prime Minister kept a record of conclusions and sent a copy to the King His colleagues often telephoned his secretary to find out what it really was they had decided In

1916 a secretary was appointed, and from that time conclusions have been noted and sent to the participants to let them know what they have done

Ordinarily they will know the agenda before they meet A minister who wishes to place an item on it will settle with his officials whether the matter is worth the cabinet's time If he decides that it is, he will write a paper on it for his colleagues The secretariat will print this, give it a number, and circulate it to all members of the cabinet, if possible a week before the meeting The other ministers will look it over, partly for the general principles involved, partly for its probable effect on their own spheres of action They may talk it over with the original minister or his staff and may print papers of their own on it for the cabinet The Treasury generally has something to say, and when foreign affairs come up, the Colonial Office, the Commonwealth Relations Office, the Board of Trade may have remarks to make It is desirable to interchange views and reconcile differences before the cabinet meeting if possible The secretariat prepares the agenda from these communications of the ministers and consults the Prime Minister The Foreign Office sends around a "daily print" of important reports and telegrams

The Prime Minister opens the meeting informally and may of course bring up any matter not on the agenda if he deems it worth while, but ordinarily he will follow the agenda Foreign affairs usually come first, then business from the departments and party matters Any minister may put in his twopennyworth, most ministers like to talk on foreign affairs and party matters and hesitate before technical problems not in their departments The cabinet avoids involved discussions, it wants to talk principles only and likes to have all work of detail done before it meets It may authorize the minister responsible for one item to go ahead with it and notify the interests affected, it may refer the item to a committee of its own number or may reject it out of hand This is not likely to happen, if the preliminary discussions have been unfavorable, the minister will probably have withdrawn his proposal The members rarely vote, the Prime Minister takes the sense of the meeting The secretary does not record the conflicting opinions, some of which the holders are happy to forget

The minutes may run this way "The cabinet decided (a) that the Minister of Foreign Affairs should be authorized to pursue his present policy toward Malafiica, (b) that he should consult further with the Chancellor of the Exchequer about possible expenses in this connection, (c) that the Secretary of State for Commonwealth Relations should communicate his proposals to the dominions of Australia, New Zealand, and South Africa, (d) that the Minister of State for Colonies should consult the governments of the colonies round about, (e) that the Minister of Defense should inform the heads of the armed services All to report at the next meeting and send around whatever information they have in advance of it"

In conclusion, the secretariat obtains the sanction of the Prime Minister to the minutes, prints them, and sends them around to the members of the cabinet and other ministers and key persons affected The secretariat has expanded of late into a number of cabinet offices for various topics which serve the cabinet and its committees and has even sent representatives abroad for information or negotiation The cabinet secretary generally comes from the Treasury, which considers itself the proper source for competent and trustworthy officials He and two or three of his staff are present at the meetings to join in catching conclusions on the fly Their minutes and reports are highly secret, protected by the Official Secrets Act

The members of the cabinet are a team before it is formed, having worked together in party politics, and are accustomed to compromise with each other No major issue is decided without cabinet discussion In the interest of the party, they must present a united front which is known as cabinet solidarity Differences between ministers and departments, the subject of rumor and gossip, must be kept under cover If a minister announces his public disagreement with his colleagues, he must resign If he merely says something foolish, the cabinet will decide whether to ignore it or let him take his words back in public as gracefully as possible On minor matters not of party controversy members may differ with each other in public, but only after an agreement to that effect It has happened that a minister has undertaken a policy with full consent of his colleagues and has found public opinion strongly against it In this case, he may resign and save the cabinet's face, when the noise has subsided, he is likely to reappear in another department, the hero of a temporary sacrifice

The cabinet is the link between executive and legislature By custom and not by law the members should sit in either the Lords or the Commons Some exceptions can be found to this rule, General J C Smuts sat in the first war cabinet for two years without a place in either house, but this is put down to the war The houses are jealous of their right and insist that if an appointee has no seat he should seek one promptly The Ministers of the Crown Act (1937) limits the number of holders of certain offices who may sit in the Commons at any one time and requires an allotment to the Lords The Prime Minister, the Chancellor of the Exchequer, the Home Secretary are always in the Commons, the Lord Chancellor always in the Lords, the Lord President frequently The Foreign Secretary may be in either but is usually in the Commons No more than six of the secretaries of state are in one house, they will try to place their undersecretaries in the house in which they do not sit At least three peers are in the cabinet

Other ministers have unpaid parliamentary secretaries, also members These and the undersecretaries and the financial secretaries may be young men under observation for cabinet posts or elders of the party at the limit of their usefulness and rewarded so for their faithfulness The undersecretaries have

salaries from £3000 to £1500 a year in addition to their parliamentary pay The sums are supposed to compensate the recipients for what they would receive in business or professions and to eliminate the temptation to write for magazines and newspapers

## *PRIVY COUNCIL*

The Privy Council did not vanish on the advent of the cabinet but survived with continuous artificial respiration It is a catchall for important persons like a few members of the royal family, the Archbishops of Canterbury and York, the members of the cabinet, the Speaker of the Commons, some judges, governors general, and ambassadors to a total of over 300 members Dominion Prime Ministers are offered the honor and usually accept, all appointments are made by the Prime Minister Each privy councilor has the title Right Honorable and holds his place for life, if the government changes, he may find himself in opposition In these circumstances, only those members who favor the existing government are called to do its work, usually five or six They give formal effect to decisions of Parliament or the cabinet and issue orders in council and proclamations under authority of an act of Parliament In the council, the seals of office are handed from one minister to another, and in it a bishop does homage for the temporalties of his see The council holds full meetings only on ceremonial occasions like the accession of a King or Queen

It has one trace of its old powers, by prerogative orders in council it may legislate for colonies without representative assemblies It does nonpolitical work like granting borough charters or forming committees for scientific or industrial research or for the universities or for improvements in administration It has a committee of justice called Judicial Committee of the Privy Council, composed of eminent lawyers under the Lord Chancellor, to take appeals from the church and the empire The Board of Trade is still in theory a committee of the Privy Council The council is a method of giving honors and a reserve from which the cabinet may draw distinguished men for odd jobs But they would be available in any case and are included in an effort to preserve an old institution for its own sake

## *MINISTER*

A minister has a great deal of work He decides many questions in his department, sets aside those which must go to the cabinet, serves on committees for the cabinet and the house, receives delegations and the press, answers letters and inquiries from M P 's and the public He must attend the cabinet, spend some time in the house and answer questions there, to which he must give much thought The most exacting task is "seeing the bill through the house " The minister and his undersecretary or parliamentary secretary must justify and explain clauses of a bill, clear away false impressions, make a

concession or two, keep in touch with Prime Minister, whips, and colleagues, and push the bill along with persistence and good humor He must find time for party gatherings, public dinners, and meetings and must show himself to the constituency from time to time He ought to be a ready speaker, mix wit with his remarks, and use the smooth or rough edge of his tongue as occasion demands He should be a man of wide general understanding, able to seize essential points of an argument and come to a decision quickly He should have judgment of men and events, an idea of what other men are worth to the party and the country, and what the effect of a measure will be He must manage his civil servants and let them know what the public will stand Rarely does a minister possess all these qualities, but he should have most of them One who is below the average will soon provoke the house into impatience and contempt and will not last Often a cabinet has a sprinkling of men with literary or scholarly talent, which adds to its prestige, the Liberal party used to distinguish itself by a display of learning

The minister of course has assistants an undersecretary or parliamentary private secretary, perhaps a financial secretary, and certainly the permanent secretary or civil service head of the department and his staff He can get advice from any other quarter and call in any number of experts, and he can consult the Prime Minister But in the last analysis, he must have a judgment and rely on it

The executive machinery is something of a patchwork Many of the names mean nothing, or something other than what they say Changes have been made to solve particular problems without regard to the working of the whole No one has ever overhauled the executive in the interest of efficiency Nevertheless, it does the work and by its atmosphere of old names and associations makes an appeal to a tradition-minded people [2]

## *CIVIL SERVICE*

The civil service is the government's staff to collect information, carry out policies, and do practical work, the personnel is either permanent or temporary, the former being the group usually thought of by the title On July 1, 1948, there were 715,282 non industrial civil servants, including post-office workers, who numbered about 350,000 They may be put into four groups [3]

### 1 The Administrative Class

The members of the administrative group had about 4000 posts in 1948, they are highest and include the permanent secretaries of departments They

[2] Cabinet and ministers, including Prime Ministers, are treated extensively in W I Jennings, *Cabinet Government* (New York, 1936), chaps 5 to 9, conveniently in H R Greaves, *The British Constitution* (New York, 1938), chap 5, Wilfrid Harrison, *The Government of Britain* (London, 1948), chap 3, and Lord Hemingford, *What Parliament Is and Does* (New York, 1948), pp 26-32

[3] *Postwar Britain, 1948-49*, p 9

have or can collect the information on which policies are based and will have a share in putting them into effect Candidates for this class take an examination of the kind set for university graduates They write on eight subjects, three deal with the world about them, the other five come from a list of about sixty topics, some of which are obscure, like Sanskrit The questions are on general culture, not on the work the candidate may do after he is accepted The theory is that a broad training of the mind is the first essential and will enable anyone to learn a particular art on the job The questions are of the kind a man can cram, but the ability to cram is precisely what he will need at his work The civil service accordingly is a normal outlet for bachelors of arts in search of a career, and some men of this class find time on the side to acquire fame in literature, art, and scholarship

The written examinations count 1000 points out of 1300 The other 300 are for the interview The candidate appears before a board for fifteen or twenty minutes and answers questions on anything which will show his ability to keep composure and meet a challenge His private interests are a good starting point, his ability to argue will certainly be tested, his use of the English language will be watched In these conditions, the largest group of successful candidates come from Oxford and Cambridge, a few from other universities, and a few from the civil service, persons who have given themselves the equivalent of university work Some variation of the tests was made in 1945-1946 for the sake of ex-service men and women, but the old system persists in essentials It has given rise to charges of favoritism for the "public school" type of candidate, but certainly there was no conscious effort to give a preference Graduates of Oxford and Cambridge met the requirements best by reason of their training, graduates of other universities would do so as soon as these were able to meet the standards of the older institutions

The civil service organization is by departments A cabinet minister and his undersecretary or parliamentary private secretary have one or more civil service private secretaries The permanent undersecretary controls the work of the department as a whole and has a deputy, who may take charge of some activity They have a number of principal assistant secretaries, each in charge of a division, e g , in the Home Office, police Each principal assistant secretary has one or more assistant secretaries and perhaps two or three principals to collect facts and statistics and make out papers All these persons are of the first class Often the deputy secretary has the daily task of deciding what questions should go to the permanent secretary and perhaps from him to the minister, and what may be left to the subordinates

A recruit to the administrative class used to be left much to himself for some months, since 1944, he has a three-months' training by senior members of the class The service is a career, apart from veterans, no one may enter after age twenty-four, and most successful candidates stay in it all their lives Supervisors make annual reports on the personnel, promotion boards read

these and act accordingly After two years, a servant who has done well may go to the Treasury, which considers that it has the cream of the crop, or up the ladder and eventually to the crown of a career, the permanent secretaryship of a department

A common criticism of the high civil servants is that they have little acquaintance with business and industry and yet have much power over them Now, however, trainees often spend two or three months in some enterprise, this period may not be enough and could easily be extended There is a limited interchange between the home and the foreign services, and generally the need for broader experience is recognized It must be said that the civil servants in a department are no bar to the presence of experts, the minister can get as many of these as he can convince the Treasury and the Prime Minister that he needs

As long as the servants do their work, they are not subject to criticism as individuals, they may make errors but the politicians have the blame They are sometimes charged with bureaucracy, they may discourage an innovating minister by emphasizing the difficulties of some proposed policy They slip into routine and in framing orders may consult their own convenience rather than that of the public, and some of them may assume a tone of unjustified authority These tendencies are a danger only if the minister is slack If he is a person of firmness, he will get his way, and the Labour government for all its changes has had no hindrance from its employees Bureaucracy is a danger only if ministers and Parliaments are careless, the civil servants do not want power for itself and govern only if no one directs them They are honest and competent and deserve well of their country

**2. The Executive Class**

The second class is for subordinate work requiring education Candidates have the higher school certificates, they have left secondary school at eighteen or nineteen and are not going to a university They pass an examination and an interview

**3. The Clerical Grade**

The third group includes clerks, typists, telephonists, etc, doing routine work, women predominate Candidates are sixteen or seventeen years old and have the school certificate or its equivalent With benefit of adult education, it is possible for servants of either class 2 or class 3 to rise to the administrative class

**4 The Professional, Scientific, and Technical Class**

Inspectors, solicitors, engineers, medical officers with qualifications certified by universities, occupational or professional bodies make up the fourth group They are recruited *ad hoc* by advertisement and competitive interview and not by examination, and rank next to the administrative class in importance

Civil servants have security of jobs and lose them only for flagrant misconduct There is considerable difficulty about getting rid even of Communists, it is easier to transfer them to posts where they can do little harm Civil servants may not run for election to a public body or take a public part in political controversy, although of course they may vote They often do their writing under assumed names as a safeguard

### Civil Service Management

The civil service commission, created in 1855, governs examination and appointment, it consists of three members appointed by the cabinet on the advice of high Treasury officials They are persons of long experience in the service and hold office until eligible for retirement under civil service rules The Treasury pays the salaries and manages the discipline of the service The servants may form professional groups like the Civil Service Clerical Association to negotiate with the Treasury over wages and conditions of work, but whether, having done so, they may affiliate with the Trades Union Congress is a topic much in dispute between Conservative and Labour parties The last election being in its favor, the Labour government passed a Trades Disputes and Trade Union Act (1946) which permitted the servants to join a union with political objects and to affiliate as they would, i e , with the T U C The hope was to encourage the servants to promote the Labour cause, the result could be to induce a general activity in politics which would not be desirable There are now about 300 civil service associations for nonindustrial personnel and of course the trade unions for the others

To promote harmony within its ranks, the civil service makes much use of Whitley councils, designed after the war of 1914-1918 for private industry but never much in favor by it Joint boards of high civil servants and of the civil service unions meet as Whitley councils on every level of employment, and for general policy there is a national Whitley Council of fifty-four members Half of these are officials appointed by the Chancellor of the Exchequer, half are "staff" from the unions They meet four times a year to consider recruitment, hours, promotion, tenure, discipline, remuneration, etc , and to improve the work of the service by encouraging education and training Committees of this council make studies and recommendations, they obtain the approval of the ministers concerned before they make public announcements There are seventy-odd councils for particular departments

Every ministry with a large number of industrial employees has a joint industrial council of managers and men to deal with wages and conditions of employment On wages and salaries, arbitration is compulsory if agreement is hard to get For industrial personnel there is an industrial court of three members, an independent chairman and one representative each of government and staff, appointed by the Minister of Labor Nonindustrial personnel go to a civil service arbitration tribunal, composed in a similar fashion The

decisions of these courts are final unless Parliament intervenes The public corporations in charge of large enterprises do their staffing in their own way at present [4]

[4] Recent accounts of the civil service are in Greaves, *op cit*, chap 7, and Harrison, *op cit*, chap 7 Proposals for changes are in E N Gladden, *The Civil Service, Its Problems and Future* (London, 1948)

# Chapter 9

# The Departments

## 1 THE TREASURY

THE TREASURY was once managed by a Lord High Treasurer but for over 200 years has been in commission, i e, in charge of a group of lords commissioners including a First Lord, the Chancellor of the Exchequer, and five junior lords The First Lord might as well have resumed the title of Treasurer but never did, he became a member of the cabinet and Prime Minister He handed the immediate financial responsibility to the Chancellor of the Exchequer, who is effective head of the department and presents the annual budget and proposals to balance it Incidentally, he has an official residence in Downing Street The five other lords, on salaries of £1000 a year each, are government whips acting under the chief whip, who has the title of parliamentary secretary to the Treasury Also attached to the Treasury is the parliamentary counsel, who drafts bills for the government, and the King's proctor, who acts for the crown in certain civil cases The Treasury seems to have a motley array of officials who do anything but financial work

It has a financial secretary in the house, the most important of the junior ministers, and occasionally in the cabinet It is the employer of the civil service and has the last word on any reorganization which involves money The bona-fide Treasury officials come to know a good deal of the workings of government and consider themselves its most important servants with a prior claim on positions of high responsibility

The Treasury supervises the work of four bodies which collect money The Board of Inland Revenue gets the direct taxes like income tax, 35 percent of all income as compared to 25 percent in the United States The Board of Customs and Excise takes the indirect taxes like excise on articles manufactured at home and customs on imports These two boards gather by far the most of the revenue, the Post Office and the commissioners of crown lands take the rest The Post Office revenue will be considered in section 9 The crown lands we have described as the private estates of the King, assigned to the nation by George III in 1760 in return for an increase in civil list, they

are about 250,000 acres including fifty estates The commissioners manage these properties and give the small surplus to the government The nationalized industries do not yet yield anything for the treasury

Taxes are many and heavy in the postwar period, to support the new social services, which take from a quarter to a third of the budget Chief of them are income tax and surtax, special tax on investment income, death duties, legacy and succession duties, stamp duties, entertainments tax, and purchase tax, called sales tax in the United States In 1948-1949 the estimated total expenditure was £2,976,000,000, the revenue £3,765,000,000, the income tax and surtax came to £1,309,000,000, the customs and exise to £1,547,000,000 [1]

All the money collected by the four bodies is paid into the account of the exchequer in the Bank of England under the comptroller general On receipt of an order from the treasury this official directs the bank to allow the paymaster general to let the various departments have the money they need The procedure enables one man, the comptroller general, to check all expenditure The Treasury officials work with the departments in preparing estimates for the next year and try to keep them down

The Treasury is in charge of a number of minor institutions and offices, supports them if necessary and answers for them in Parliament Such are the British Museum, the Mint, the Civil Service Commission, the National Gallery and the National Portrait Gallery, the London *Gazette*, the Public Record Office, whose head is the Master of the Rolls, and the Stationery Office The last is under the King's Printer, does government printing and publishes and sells White Papers and reports

## Bank of England

Under legislation by the Labour government, the Treasury is in charge of the nationalized Bank of England A governor, deputy governor, and sixteen directors are appointed by the King on advice of the cabinet for fixed terms and are reeligible No member of Parliament or minister of the crown may be on the board The bank has power to issue directions to the other banks and require their compliance and the provision of any information it wants about their operations The date of transfer of the capital stock of the old bank to a nominee of the Treasury was March 1, 1946 From that time the Treasury has been responsible for the bank and issues instructions to the board after consultation with the cabinet Nationalization seems to have made little difference in the work of the bank to date (1950) It had always been in such close touch with the government that it was practically

[1] *Postwar Britain, 1948-49, p* 60 A B Keith, *The Constitution of England from Queen Victoria to George VI* (New York, 1940), vol II, chap 15, gives the older duties of the department, see also W I Jennings, *Cabinet Government* (New York, 1936), chap 7

a government institution in any case The financial community of London has had no serious complaints of the new regime

The Treasury has the duty of investigating claims against the crown The ministers inherited the King's immunity from suit in his own courts and could not be sued in their official capacity An injured person might sue the official who was the immediate cause of his difficulties and even bankrupt him but might not obtain enough to pay his bills If wrongs had been clearly committed by officials in the course of their duty, the Treasury would pay damages to the wronged party but as an act of grace, not of right, and at their own valuation In cases of contract with the crown a petition of right could be used with the sanction of the Home Secretary and the Attorney General but was inconvenient and expensive The Crown Proceedings Act (1947) abolishes the old procedures and places the crown in the same position as an ordinary person within the law of tort, except for a list of cases, e g , involving the defense of the realm The crown may now be sued and the Treasury must provide for the event [2]

## 2 *HOME OFFICE*

The Home Secretary has the primary duty of keeping the peace and bringing offenders to justice He controls directly the metropolitan police force in the London area (except the city of London) and indirectly the police forces of counties and cities to a total of 133 bodies in 1948 He sends inspectors to these bodies and on a favorable report informs the Treasury, which pays half the cost He regulates the number and pay of the local police and has a say in the appointment of chief constables, recorders, and stipendiary magistrates He is in charge of the prison commission, the 19,000-odd prisoners, the thirty-six prisons and twenty Borstal Institutions which are reformatories or camps for young offenders and provide work, recreation, and education He watches the juvenile courts and appoints justices of the peace to them in the metropolitan area [3]

[2] The Treasury has control of two new corporations The Finance Corporation for Industry is a limited company owned by a group of insurance companies, trust companies, and the Bank of England in the ratio of 40 30 30 It supplies the long-term capital needs of firms or industries The Industrial and Commercial Finance Corporation is for the small borrower in business or industry and advances money at 4 or 4½ percent for periods up to twenty years *Postwar Britain, 1948-49,* pp 67-68, *Postwar Britain, 1946,* p 59, for Bank of England

[3] In 1948 the metropolitan force had 19,500 men, the city of London 975, the boroughs 21,500, the counties 26,000 to a total of about 68,000 There were also 66,000 unpaid specials for part-time duty Of the professionals, 830 were women in 1946 All forces have traffic departments, all but the smallest have criminal investigation departments That of the metropolitan police has headquarters in Scotland Yard and goes by that name It keeps central criminal records and a fingerprint collection Seven special laboratories in various parts of the country are at the disposal of all forces

In the county, the police are under the standing joint committee of councilors and

The secretary has secret-service agents to watch and report on the activities of such persons as Communists and Fascists In case of grave disorder, he may call on the armed forces for their aid He is in charge of aliens controls entry and naturalization, may cancel certificates and deport the holders, may extradite alien criminals or allow them to remain if they are political offenders only When Parliament permits, he censors posts, telephones, telegraphs He

justices of the peace, in the borough, under the watch committee of the council The police have an official trade union, the Police Federation, which elects a central body, the Police Council The Home Secretary consults this group about changes in the regulations He appoints the chief commissioner and assistants for the metropolitan police—and gives them much of his time and energy—and the commissioner of the city police He sends inspectors to all police forces who see the men on parade, ask about their homes, rents, and grievances, visit the out-stations, and attend particularly to the accommodation for women prisoners

Until 1933 nearly all posts in the metropolitan force went by promotion from the ranks, but in that year a police college was established at Hendon to train candidates for all posts beyond that of inspector The cadets come partly from the force, partly from university graduates who pass a competitive examination and an interview The training is for two years and is military, legal, and athletic, the graduates may not join the Police Federation The innovation provoked fears of class in the force and criticism of the curriculum The fears of class seem unjustified, the curriculum can be changed at any time The service needs educated men and the college is necessary

Out of the metropolitan area, the J P 's select one or two of their number for juvenile work and let them hold court at different times or in different places from the regular courts

The prison commission has a chairman and two members (one of whom is a doctor), and six assistants (one of whom is a woman) All are permanent civil servants The commission and the secretary are responsible for food, clothing, work, recreation, discipline among the prisoners, they may reduce sentences and pardon offenders The secretary appoints the governors of the prisons, who are also civil servants The commission appoints the chaplains, the doctors, the prison officials (2850 men, 260 women in 1948) It keeps young offenders separate and promotes the well-behaved of all sorts to the star class, who have the best training and the most interesting work Their particular place of confinement is Wakefield Prison, of 5183 discharged from it in 1935-1942, only 635 came back Sentences of three years or more used to be called penal servitude and served in special and unattractive places, but the Criminal Justice Act (1948) abolishes penal servitude, hard labor, and corporal punishment by court order and confers the title *imprisonment* on all sorts of confinement

The prisons have workshops and equipment and employ the prisoners as usefully as they can, e g , at making their own clothing, but do not market the product for fear of the industries affected by the competition This is a serious bar to prison work and ought not to be the overriding consideration Some institutions carry on farming, stock raising, and land reclamation, the national union of farmers having evinced no hostile interest There is an earnings scheme to provide incentive, libraries, classes in adult education, lectures, debates, music Chaplains and other clergy are at hand, a medical officer resides in each large prison, a local doctor calls at the others, a nursing service is available By good work and conduct a prisoner may earn privileges as he goes along and a remission of one-third of his sentence Volunteer visitors to the number of 650 men and women see the prisoners with official sanction, an aid society helps the discharged to obtain employment *Postwar Britain, 1948-49*, pp 14-22

receives petitions and addresses to the King, and replies to them or refers them to the proper place If he disapproves, he says that the petition cannot be received and sends it back

He looks after the probation officers, 500 full-time and 300 part-time, and the 109 remand houses and 146 approved schools for juvenile delinquents and neglected persons He appoints councils for these institutions, another for the asylums, and a poison board for dangerous drugs He appoints the Director of Public Prosecutions and some magistrates

He has also a list of social services He has lost the enforcement of factory acts to the Minister of Labor but has enough to do without it as he manages the family allowances He is in charge of prevention to cruelty to children and animals and cooperates with the voluntary societies, S P C C and S P C A, which have trained and salaried inspectors with police powers Inebriation, burials, cremation, vivisection, the licensing of public houses and dog tracks are among the subjects which fall to the secretary In wartime he supervises the air-raid precautions system He has an eye to the dependent regions like the Isle of Man and the Channel Islands, but as they run their own affairs he merely sees that they do not disregard the rights of other parts of the islands The Home Office is highly important and can be entrusted only to a man of energy and ability [4]

### *3 SCOTTISH OFFICE*

Scotland has her own institutions like law, banking, education, religion and her own economic problems owing to a colder climate and fewer resources than England The population, at 5,000,000 is much less and can do with less machinery of government and has a lively sense of nationality For all these reasons, Scotland has a Secretary of State who does the work of the Home Secretary and the Ministers of Health, Education, and Agriculture and Fisheries in England These departments have headquarters in Edinburgh, attended frequently by the secretary's undersecretaries With the Lord Advocate, the secretary manages the courts of law and judicial appointments He is expected to be Scotland's minister and to voice her opinion at any time He has no power over aliens, drugs, air-raid precautions, or cruelty to children and animals, which fall to the Home Secretary in London

For his work, separate acts of Parliament are necessary and are prepared by Scots and put into shape by the Scottish standing committee, by great majority Scots On a government motion, it considers Scottish estimates and does the second reading debate on them in fact if not in name When the bills come up in the house, few English or Welsh members are rash enough to offer an opinion The non-Scots withdraw or keep a discreet silence while the Scots settle their own affairs If all that is wanted is a modification of a general bill, a Scottish application clause is appended to it In effect, through

[4] Keith, *op cit*, vol 1, pp 49-56

the Scottish committee and office, Scotland has home rule from Westminster and the advantage of managing all other parts of the empire as well Those nationalists who want Scotland to have a legislature like Northern Ireland are few and negligible [5]

## 4 FOREIGN OFFICE

The Secretary for Foreign Affairs represents the government in its dealings with other powers He and his staff have few technical decisions to make but need in their heads or at their hands an array of information on military, industrial, commercial, social, and political affairs in other countries and estimates of their leading personalities They ought to have a knowledge of history, geography, and languages and a command of social etiquette For these reasons, they have been recruited mainly from the public school and university groups and on the basis of the interview They used to pass examinations in languages and a board of selection over and above the tests for the administrative class, and before 1919 they also needed a private income of £500 This qualification was abolished but the Foreign Office remained a preserve of the wealthy and the well born

In 1945 steps were taken to expand the service The special board was abolished and the tests for capacity and character were separated from those for languages and countries The candidate now passes the examinations for the administrative class and spends eighteen months abroad at public expense Only after this period does he face the language requirements It may be doubted that this change will alter the type of personnel much

The secretary must know what is going on in foreign countries He reads hard and keeps his staff busy providing information He gets reports from ambassadors and ministers abroad and talks with representatives of other powers in London The ambassador goes to an important country, the minister to an obscure one, but practice sometimes varies from theory He has attachés with special knowledge and informs the secretary of events and opinion abroad which may be of interest to his country He manages personal relations to promote good feeling and does a great and expensive deal of entertaining, and ought to have a long purse of his own as well as tact and knowledge of many kinds

Parallel with the diplomatic service is the consular service, under direction of the Foreign Office and the Board of Trade The consul issues and visas passports and reports on business conditions abroad to enable British commercial and industrial men to take any opportunities that arise He also helps British subjects who get into trouble He is not expected to do much entertaining and can live on his salary

The Foreign Secretary and the Prime Minister with the concurrence of the cabinet decide foreign policy The old basis of this was national interest, the

[5] *Ibid*, pp 56-58

procedure was to decide what attitude toward other nations would improve the national political and commercial position, and to adopt it The new basis is world peace as the prime national interest, and the procedure is to inquire what attitudes will promote it, including careful consideration of the wishes of cooperating nations

The secretary and the Prime Minister must also take the chief steps in making or revising treaties These need not legally be submitted to Parliament unless they require some change in the law, but all important treaties are so submitted, to obtain national consent to national obligations All this business needs the signature and consequently the knowledge of the King He sees important dispatches and calls the secretary into conference, and he must notify the secretary of his movements, that the effect on public opinion may be considered The secretary accordingly sees a great deal of the King

Foreign affairs occupy a peculiar position Negotiations must be in secret if they are to be of any value, and undertakings of a military nature must not be disclosed to a possible enemy The work of the Foreign Office is carried on in an atmosphere of partial secrecy This has caused domestic controversy, some sections of public opinion fear a commitment which they do not want and resent the making of national business a private affair of the Foreign Office Often these people are ill informed on foreign affairs and have impossible or undesirable purposes, but they can always stir uneasiness in the public mind The Foreign Office must placate opinion at home without sacrificing a national interest The secretary can do this by frequent speeches on foreign policy and by assurances that he and not some person in the woodpile is in charge [6]

## 5 *COLONIES*

The Secretary for the Colonies is in charge of colonies, protectorates, and mandates Some of the colonies, like Bermuda, have legislatures of their own, but the Secretary appoints the governor and the councilors, who are invariably residents of the place Most of the colonies have no legislature or have one in which the official and nominated members predominate, and these are in his complete control He disallows legislation of which he disapproves, makes grants and checks expenditure through an audit department In some protectorates, the minister acts through local rulers or controls only foreign relations He has many advisory committees of a technical and humanitarian nature [7]

The Labour government has passed a Colonial Development and Welfare Act (1947) to provide for transport, social, and other services in the colonies This act sets up a Colonial Development Corporation with borrowing capacity of £400,000,000 to increase the productive capacity and trade of

[6] *Ibid*, chap 16
[7] *Ibid*, vol II, chap 17

the colonies as a supplement and not substitute for private enterprise The members of the board are appointed by the minister All their plans must have the approval and cooperation of the colonial governments and must provide for the welfare of the employees They are intended to fit the plans of the Overseas Food Corporation under the Food Ministry in so far as these touch the colonies A Council for Higher Education has been set up for the colonies as a whole It has started universities in the West Indies and Malaya and university colleges in East and West Africa

### 6 *COMMONWEALTH RELATIONS, FORMERLY DOMINIONS*

The Secretary for Commonweath Relations often has the colonies in charge also and has offices in the same building He deals with the dominions, Southern Rhodesia, which is practically a dominion, and some protectorates in South Africa He is represented by high commissioners in the dominion capitals, and the dominions send high commissioners to London The secretary sends confidential information to the dominions and tries to work out common policies with them on matters of mutual interest, but in important affairs like foreign relations he finds himself often in a corner while the Prime Minister and the Secretary for Foreign Affairs do the business directly with dominion counterparts The office in consequence is rated as of secondary importance

### 7 *FOOD*

The Food Ministry came into existence in the last war to obtain food, distribute it by rationing, regulate it on rules of diet and control price by subsidies, it persists while food is short during reconstruction It controls the Overseas Food Corporation, which has plans for the production of food and other agricultural products in places overseas, not necessarily in British colonies, e g , the projects for growing peanuts, cotton, and tobacco in various parts of Africa The ministry has increased staple foods like bread and potatoes and decreased variety foods, leaving the diet enough for everybody and somewhat monotonous

### 8 *WORKS*

A former first commissioner of works and public buildings has been promoted to the status of minister He is in charge of royal palaces and parks, many government buildings and overseas legations, ancient monuments, statues in the metropolitan police district, the Royal Botanical Garden in Edinburgh, etc [8] Under the Labour government he helps with the housing program

[8] *Ibid*, vol 1, p 76

## 9 POST OFFICE, B B C, CABLE AND WIRELESS

The Post Office is under two politicians, the Postmaster General and his assistant (both M P's), and a number of permanent officials including a director general and directors for various phases of the work It controls the postal, telephone, telegraph services, the cable and wireless, and the B B C

Out of accruing revenue, the Post Office pays a fixed sum to the Treasury and uses the surplus for improvement of its services It may be remarked that there is always a profit, the institution serves a dense population in a small area and is well managed It gets suggestions from a number of advisory committees as well as press and public, who work gratis It has a director of personnel to manage the employees, some 350,000 in 1946-1947 It does much government business, at its wicket the Briton can draw his pension, bank his money, buy licenses for his dog, his gun, his radio set, his car, his operator's license, purchase stamps for various documents and state insurance, and get his family allowance His deposits go into the national savings bank under control of commissioners of the national debt and are invested in government securities or lent to government departments

The B B C is a public corporation created by royal charter and controlled by a board of governors and a director general who are appointed and instructed in technical matters by the Postmaster General with the sanction of the Prime Minister The board has seven members at present, the chairman and vice-chairman are full-time, the other five are supposed to represent the public The members hold office for five years at a time and are all on salary The revenue comes from the annual fee of a pound on each owner of a radio set, the annual accounts are approved by the Postmaster General and submitted to Parliament

The purpose of the B B C is to inform, educate, and entertain the public, and to this end it gets instructions from the Lord President of the Council in his capacity as coordinator of information It carries no advertising, stresses good music and drama, gives news bulletins, empire and foreign broadcasts, and appeals to the adult except at periods marked for children It is much more intellectual than private companies of the sort but is confined by the need for impartiality in giving news and comments and is often colorless Being publicly owned, it is fair game for criticism and gets plenty of it, for many people dislike the persons who broadcast or what they broadcast or both and are not slow to say so for their pound a year Like the weather, the B B C cannot suit everybody It has three centralized training organizations a general broadcasting school, a secretarial school, an engineering school There were over 11,000,000 receiving licenses in 1946-1947 and 55,000 television licenses, each of which cost a pound extra There is an advisory committee for television

The B B C has external services which are paid for by the government

It has European services in twenty-four languages (1946-1947), each is usually a half-hour of news, comment from the British view, and entertainment It has a monitor service to observe foreign broadcasts and keeps its best station for the purpose at Caversham The listeners make records on wax cylinders of broadcasts that seem important The monitor department issues a daily digest of world broadcasts and a report of trends and reactions discerned from them At present, it is most interested in Russia and her satellites [9]

Cable and wireless were in the hands of private companies for many years but after the first war seemed too important to be left there On the recommendation of an imperial conference, they were gathered under one company in 1929, Cable and Wireless Ltd, advised by a Commonwealth Communications Council It was an easy step to public ownership under the Cable and Wireless Act (1946), which came into operation on January 1, 1947 The organization is called a company, has a chairman, and is under the Postmaster General It acquired 155,000 nautical miles of submarine cable, five cable ships, four wireless stations in the United Kingdom, and about 200 offices and cable and wireless stations in many countries It has about 150 wireless stations and lines by sea and land to all parts of the empire and important countries out of it [10]

### 10 *ARMED FORCES, MINISTER OF DEFENSE*

The navy was under a Lord High Admiral until 1708 and has been under a commission since that time, as happened to the Treasury The Board of Admiralty manages the navy and actually meets and works On it are three politicians, the First Lord of Admiralty (rarely a peer), who used to sit in the cabinet, the parliamentary and financial secretary, and the Civil Lord Their presence inspired W S Gilbert to write in *Pinafore*, "Stick close to your desk and never go to sea, and you shall be ruler of the queen's navee" The other five members of the board are sea lords, sailors by profession, the first is Chief of Naval Staff and directs the others The politicians find the money and indicate the work of the navy, the sailors assign units and manage the ships and the personnel The future of the navy in an age of air power is a topic for much discussion, but present plans contemplate little change except in regard to battleships, considered vulnerable

The army is under an Army Council like the Board of Admiralty On the political side, the council contains a Secretary of State for War, who used to be in the cabinet, and a parliamentary and financial secretary On the technical side there are commonly four soldiers, the Chief of General Staff, the adjutant general, the quartermaster general, a director of territorials or militia, and a director of munitions production Before 1914, the council controlled the small regular army and the territorials In the war, the army

[9] *Postwar Britain, 1948-49*, pp 150-153
[10] *Ibid*, pp 148-149

was expanded by voluntary service for two years In 1916 the method proved inadequate and the draft took its place, but after the war the old system was resumed Under the threat of Hitler, the draft was again adopted, in June, 1939, and remains in effect For some years after 1945, it was for one year in service and six in reserve, but the latest bill calls for eighteen months with the colors and five and a half in reserve These national service men supplement the regular army, which is recruited in the old way and they will retire from service into the territorials beginning in 1950

The air force is under a council presided over by a secretary of state and an undersecretary Beside them sit a Chief of Air Staff and three professional airmen [11]

The Prime Minister is chairman of the defense committee of the cabinet and has the Minister of Defense as his deputy They leave strategic plans to the committee of chiefs of staffs, with whom the Minister of Defense has frequent meetings The services have joint staffs for intelligence and planning The Minister of Defense is chairman of the standing committee of service ministers to consider matters of personnel and administration of common interest He is also chairman of the ministerial production committee, which includes the service ministers and the Ministers of Supply and Labor They study the production needs of the services, supervise their research, and estimate war potential The Minister of Defense has a research policy committee whose chairman in 1948 was Sir Henry Tizard The minister also controls the combined operations headquarters of the services, the joint intelligence bureau, the imperial defense college The Home Office has a home defense committee to consider problems of food, supplies, transport, etc, for civilians in time of war [12]

## *11 SUPPLY*

The Ministry of Supply was set up in 1939 to supply the army mainly and articles in use by all three services such as clothing, motor vehicles, medical equipment It did little for the navy, which likes to supply itself as far as possible During the war, the ministry controlled the production of almost all raw materials and had much to say about the heavy industries At the end of the war it absorbed the Ministry of Aircraft Production and by compensation lost some functions to the Board of Trade Now it keeps a hand over war potential and, by consequence, industries like steel and iron, and works with the Board of Trade on general problems of production, including material for housing It may conclude as a Ministry of Metallurgy and will certainly manage the iron and steel industry if present plans are carried out [13]

[11] Keith, *op cit*, vol II, chap 18, Michael Stewart, *The British Approach to Politics* (New York, 1938), pp 98-101 Personnel of board and councils varies somewhat

[12] *Postwar Britain, 1948-49*, pp 22-25

[13] *Ibid*, p 128

## 12 TRANSPORT

The Ministry of Transport used to concern itself chiefly with roads and particularly with 4500 miles of main roads, bridges, ferries, harbors, waterways It left other roads to the care of local authorities but retained a supervisory power Transport officials agreed with Treasury officials on the amount of money to be spent on roads, and allocated it to their own roads and to the local authorities The minister may compel landholders to sell land needed for roads at a reasonable price but seldom resorts to such extremes His staff collect statistics of accidents and try to promote safety through a highway code in cooperation with automobile associations The fees paid by private motorists and owners of commercial vehicles used to go into a separate fund for road development until 1936, since that year they go into the exchequer with other items of income This has caused heartburning among motorists, who suspect victimization of themselves for the sake of the Treasury, but seems likely to remain The Labour government has changed the basis of fee from horsepower, which induced the manufacture of small light cars with weak motors, to a flat rate of ten pounds a year The new fee will doubtless produce adult-size cars and motors but not until the current shortage of gasoline has been overcome The 1948 ration gave ninety miles a month

The ministry took close control of the railways in 1921, it compelled an amalgamation into four groups and established a tribunal to set rates and a board for wages and conditions of labor The Labour government carried the process one step farther and passed a Transport Act to come into force January 1, 1948 By it, sixty railway undertakings with over 52,000 miles of single track as of 1939 and 2100 (1640 navigable) miles of canals with docks, harbor works, hotels, and 14 steamships, became public property, the stockholders receiving compensation For the management, the minister appoints a Transport Commission of up to eight members and several subordinate bodies called executives These are the Railway Executive, the Dock and Inland Waterways Executive, the Road Transport Executive, the Hotels Executive for railway hotels and catering The compensation was in 3 percent stock guaranteed by the Treasury and included £1,065,000,000 for railways and canals alone The commission makes a report and publishes its accounts annually and lays both before Parliament

The minister chooses the members of a Central Transport Consultative Committee and regional committees and a Transport Users' Committee, who are to give him other people's views on the subject The old Railway Rates Tribunal was renamed Transport Tribunal and has the jurisdiction of the former Railway and Canal Commission

The Road Transport Executive coordinates bus and coach services and may operate vehicles itself It controls road haulage by permits and divides the

vehicles into public carriers, limited carriers which serve a business primarily and do a little work for the public, and private carriers which serve only their owners The first two classes may not haul more than twenty-five miles without a permit except in undertakings like furniture removals The idea is to prevent waste in the movement of vehicles but seems likely to lead to trouble Tramways in general are still in the hands of local authorities

Shipping has been a pillar of British economic life for many years and is naturally in care of the Department of Transport In 1939 there were 17,000,000 tons of merchant shipping Much was lost during the war and not entirely replaced by new building, in 1947 the figure was 15,500,000 tons Great Britain leads the world in new launchings, 57 percent of the total in 1947, and will no doubt soon surpass the prewar tonnage There are about 138,000 officers and men in the service (1948) In April, 1948, the Ministry of Transport passed immediate responsibility for their welfare to a new Merchant Navy Welfare Board, including representatives of shipowners, seafarers, voluntary societies, and government departments This body continues existing port welfare committees, appoints welfare officers in the principal ports, and manages the navy houses and clubs directly or through the voluntary societies [14]

Shipping in general is under the National Maritime Board, appointed by the Minister of Transport, and is still in private hands

The problem of the dockers, casual laborers and often in distress, has been attacked with some success A national Dock Labor Board has been set up as a joint union-employer group It sets the terms of employment at the docks, gives the workers a practical closed shop and guaranteed weekly wages whether they are called for work or not, and provides a week's vacation with pay

## *13 CIVIL AVIATION*

The Ministry of Civil Aviation is new, set on its feet by the Civil Aviation Act (1946) It does not deal with manufacture of planes, which is in charge of the Ministry of Supply, it orders them and supervises air lines, ports, and routes and negotiates with lines out of the United Kingdom It took over the old British Overseas Air Corporation and two new organizations, the British European Airways Corporation and the British South American Airways Corporation The minister appoints directors of these bodies, which have a monopoly of scheduled air services, and submits their accounts and reports to Parliament annually He has created an Air Safety Board (1946), a National Air Research Organization at Bedford (1947), and a College of Aeronautics at Cranfield (1946) under a board of governors appointed by the Ministry of Education The college teaches design, propulsion, aerodynamics, mathematics, metallurgy, and electronics in two-year courses The minister has an

[14] *Ibid*, pp 138-141, Keith, *op cit*, vol 1, pp 63-64

advisory committee on private flying, for which there were in 1948 fifty-seven clubs with 210 machines, and thirty-eight glider clubs with 91 machines not counting service formations Private craft numbered 253, those for business 146 [15]

## *14 FUEL AND POWER*

The new Ministry of Fuel and Power has great industrial importance It gets its assignments from the Coal Industry Nationalization Act (1946) passed, after the principle of nationalization had been accepted by several governments, from the Electricity Act (1947), and from the Gas Act (1948)

The coal property taken over included about 1500 collieries owned by about 800 individuals or companies, 400 small mines, half the coking and by-product plants of the country, 1,000,000 acres of land, 100,000 dwelling houses, 200,000 railway wagons It employs three-quarters of a million people The industry continues to be a problem under public as under private ownership The workers have a better time—higher wages, the five-day week, more facilities for baths, etc —at the cost of a price increase to the consumer The year 1948 showed an operating profit but not nearly enough to overcome a large loss of the previous year The ministry has done its best to obtain technical improvements, but these fail of full effect in the many narrow seams of the mines Production in 1948 was over 208,000,000 tons, near the target of 211,000,000 but not as much as the output of 1938 (227,000,000) As coal is a principal export, the slowness of production causes much concern

For the coal industry, the minister appoints a national Coal Board of nine members three leading figures in mining, one in engineering, one in finance, one scientist, one administrator, two trade unionists The chairman, a former large operator, gets £8500, the others £5000 The board has advice from two consumers' councils, one of industrial users, one of domestic, and may borrow money from the Treasury

The gas property was owned by local authorities and companies in about 1000 undertakings before it became national property Nearly all gas comes from carbonization of coal, a little from oil The chief use is for domestic heat and cooking, as four families out of five cook by gas Two-thirds of it goes into homes, the rest to industry and commerce The minister appoints a Central Gas Council which supervises the work of twelve area boards

By the Electricity Act, the government took over the property of 564 bodies, mostly local authorities and private companies Included was the North of Scotland Hydroelectric Board set up in 1943 to control generation and distribution Only 2 56 percent of British electricity comes from water power, the rest comes from coal The minister appoints a board consisting of a chairman and six members, to whom are added four others from the fourteen area boards and the North of Scotland Board The Electricity Board is in

[15] *Postwar Britain, 1948-49,* pp 141-147

charge of generation, supply, and main transmission, it manages research and training and controls the area boards, each of which has a chairman and up to seven members and busies itself with distribution In each area there is a consultative council appointed by the minister to represent consumers and other persons and organizations interested in electricity and to give their views on plans, charges, and services None of these acts—coal, gas, electricity—applies to Northern Ireland [16]

## *15 BOARD OF TRADE*

The Board of Trade is officially a committee of the Privy Council and has many members like the Archbishop of Canterbury who take no part in the work The chief officials are the president and parliamentary secretaries for home and oversea trade Between the wars there was a third secretary for mines but he has vanished in the nationalization of the mining industry, which is now under the new Department of Fuel and Power There is no good reason for not promoting the president to be Minister of Trade and Commerce and head of a normal department

The board helps businessmen by publishing statistics of prices, production, imports, exports, and information about raw materials and markets at home and abroad It enforces the laws about weights and measures, governs the formation and operation of companies, and looks to the rights of inventors It has been in charge of protection since 1932, watches for discrimination by other countries against British trade, and promotes tariff and trade agreements with them [17]

Under the Labour government the board directs production for export and the location of industry, both highly important for the economic program It organizes overseas consumer goods industries and "working parties" to investigate production and distribution of such commodities with a view to improved efficiency in both

## *16 LABOR AND NATIONAL SERVICE*

The chief purpose of the Department of Labor and National Service at its creation in 1916 was to promote good relations between employers and employed and help the war effort, and after the war it spent most of its time and energy in assisting the poorer groups It was still active in industrial relations, it encouraged agreements between employers and employed and arbitrated disputes if asked to do so It provided information for the parties in the *Labour Gazette* like statistics on the cost of living or on the condition of

[16] *Ibid*, pp 75-76 The boroughs are still operating the gas plants under supervision of the council, but have lost the electricity

[17] Keith, *op cit*, vol 1, pp 58-63 The board does not, as one would expect, care directly for buoys, lighthouses, pilotage, it leaves much of such business to a voluntary group of master mariners called Elder Brethren of Trinity House

industries abroad In some occupations like home industry, where wages were low and organization weak, the ministry supervised trade boards composed of representatives of the ministry, the workers, and the employers The boards had power to fix wages and sent inspectors to enforce the decisions

The ministry maintained unemployment exchanges unofficially called "the labor" where employers and employees registered their requests for workers and work respectively It might lend money for transportation to a man in one area who had a prospect of a job in another The ministry keeps these powers but exercises them with greatly varying stress in the changed economic conditions since 1939

Between the wars it became known as the ministry of unemployment, so much of its time being taken up with unemployment insurance and relief The second of these was granted subject to a means test—an inquiry about the resources of the applicant and his relatives—and led to much controversy These functions have now passed to the Ministry of National Insurance and have taken a different form

During the second war the ministry added national service to its title and duties, i e , compulsory assignment of civilian personnel to industry and commerce according to need, and continues it in the peace to promote the economic plan It has taken over the enforcement of factory acts from the Home Office and operates an industrial welfare department to improve the worker's environment while he works

At present, the Minister of Labor and National Service has about 1200 employment exchanges, which have many branch offices and take advice from committees of employers, employees, and local interests The offices try to bring together employers who want workers and workers who want work and to organize the movement of workers from job to job and district to district They also compile local employment records to help the minister and the government in their plans There is a special youth employment service attached to the ministry to give vocational guidance to young people and place them in suitable employment It arranges apprenticeship and training and will make grants to enable boys and girls with aptitudes to take jobs away from home

The ministry keeps a register of disabled persons, sufferers from the war and others, and it may compel employers of more than twenty workers to accept a percentage of such persons (at present 3 percent) There were nearly 900,000 such persons on the register in 1948 It has a Disabled Persons Employment Corporation to look after severe cases of disability This body operates its own factories, seventy-seven in number at the end of 1948, keeps industrial rehabilitation centers and maintains the students, and makes grants to certain groups to take vocational training in other places

The ministry manages the control of labor, which, it is hoped, will be temporary The intention is to direct workers into undermanned occupations

Men eighteen to fifty and women eighteen to forty may seek work and be sought for work only through the official agencies, which will persuade them to take work indicated and, in the last analysis, compel them Exempted are women with children under fifteen, managers, professional men, administrators, miners, dockers, agricultural workers, merchant sailors if genuinely seeking work in their occupations The ministry has fourteen appointments offices for higher white-collar groups, professional men, and administrators It may make grants to them for training at universities and other institutions It operates comprehensive resettlement schemes for ex-service men and women but will be able to close these in the near future

It has many ways of promoting harmony between workers and employers Most employers' associations belong to the British Employers Confederation, which is recognized and used by government, most trade unions belong to the Trades Union Congress, which has similar status These bodies have formed a joint advisory council which works with the ministry Groups of industries have set up 115 joint industrial councils on a national level with their employees to discuss terms and conditions of employment, and similar bodies at district and factory level In some poorly organized industries the minister sets up wages councils or boards to represent employers, employees, and government, and he may enforce their decisions Between 2,000,000 and 3,000,000 workers come under this plan

He has a staff of conciliation officers ready with good offices and information in case of trouble If both parties so request, he will arrange arbitration by one man, a board, or a permanent tribunal called the Industrial Court, and if there is yet no settlement, he may send the matter to the National Arbitration Tribunal, whose decisions are legally binding Alternatively, he may appoint a court of inquiry or committee of investigation, which will make a report, not binding but usually accepted by both sides A recent development is the formation of joint production committees in factories, on which both sides of industry will propound ideas for increasing production, and this movement has the minister's warm blessing but is yet only in its childhood The minister is a busy man and has a key post [18]

## *17 EDUCATION*

The important business of education was for many years in the hands of a board which in theory was a committee of the Privy Council and in fact did not exist The work was done by a president, but since 1944 he has been a minister with a department He has nothing to do with Scotland and has a separate section for Wales, whose secretary and inspectors are bilingual At present he is planning a comprehensive scheme of secondary, vocational, and elementary education which will take many years to carry out

In the interval, the minister supervises the educational work of local

[18] *Postwar Britain, 1948-49*, pp 81-96

authorities and private bodies through inspectors, sends circulars of instruction, and recommends handbooks for teachers He supervises the training of teachers and issuance of certificates and lays down scales of salaries and pensions In all this work he uses grants as the instrument of persuasion He has a medical department to oversee the medical services of the schools and a staff of architects to sanction plans for buildings He arranges with the universities for state scholarships and for adult education out of the university walls At present there are 750 state scholarships which cover tuition and maintenance, and the annual grant by government to the universities is £10,000,000 in place of £2,250,000 before the war These grants are made by the Treasury on the advice of a University Grants Committee, with which the Minister of Education has nothing to do

He has ultimate control of the Royal College of Art, the Victoria and Albert Museum, and the Bethnal Green Museum, all of which have boards of directors, but he interferes little with them, being satisfied with their work

## *18 HEALTH*

The Ministry of Health was created in 1919 to take over the duties of the local government board which included management of public health and the poor law It added old-age pensions, paid since 1908, and health insurance under the act of 1912 By the terms of this important legislation, the employer paid threepence a week, the male employee fourpence, the female threepence, and the government twopence toward an insurance fund The sick or injured worker received free medical treatment and weekly payments up to twenty-six weeks, and the scheme was popular Pensions and insurance have now passed to the new Ministry of National Insurance

The Ministry of Health still supervises the local authorities and prevents them from ignoring the law or obstructing the central government It keeps an eye on their finance and appoints a Central Valuation Committee to check their estimates of property for the rates By this means it keeps some uniformity in assessment and some control of rates The minister appoints auditors to inspect their accounts and limit their spending to legitimate objects and amounts, he reviews the terms on which they borrow money and distributes the grants he receives from the Treasury on their account He receives the annual reports of the medical officers of health, supervises their efforts, and has a say in their appointment He has charge of the Registry Office, which controls the local registrars of births and deaths (clerks of counties and boroughs) and takes their reports, and he has charge of housing He has many new duties under postwar policies, which need description at length, and has lost poor relief and pensions to the Ministry of National Insurance [19]

[19] The older functions of the Ministries of Education and Health are described in Keith, *op cit*, vol 1, pp 69-76

## *19 TOWN AND COUNTRY PLANNING*

Great Britain has limited space and a large population, has let her urban areas grow haphazard like other countries, and has a full complement of slums, congestion, and bad distribution of houses and industries A series of acts from 1925 on gave local authorities power to regulate the uses to which land in their areas might be put, but had no provision for central coordination Most local authorities built suburbs for the low-income groups and left a dull sameness in the neighborhood Studies were made and three basic reports issued, 1940–1942 Sir Montagu Barlow's report on the distribution of industrial population (1940), Lord Justice Scott's on land utilization in certain areas, and Mr Justice Uthwatt's on compensation and betterment (both 1942) A new ministry was created in February, 1943, for the tremendous task of bringing order into the community life of England

Under it, 146 local authorities have planning powers Councils of counties, large cities, and towns are to survey their areas for the requirements of industry and population in every conceivable way—as places in which to work, play, live, and bring up families Each council is to draw up a development plan, obtain criticisms at public meetings, and send it to the minister for approval It will employ professional town planners and architects and will reexamine the plan every five years It has large powers to acquire land, under the Acquisition of Land Act of 1946 it may take possession of a site within fourteen days By 1948, work had been started in seven places

Some legislation assists the process The Distribution of Industries Act, 1945, provided for the development of distressed areas and the building of new industrial establishments to obtain a wide distribution of industry The New Towns Act, 1946, gave the government power to stop the growth of large urbanized areas and to create new towns The Town and Country Planning Act, 1947, enables the government to control land with a view to its best use, e g , to stop the conversion of good arable land into urban settlements The countryside is to be preserved from encroachments by straggling towns, and its beauties are to be saved from the desecration of unsightly advertising

Plans envisage urban wards or units of 10,000 people, five to an urban district, each unit to have seven acres of open space At each stage—unit, district, borough—there will be public services and facilities for recreation and education Of the first ten new towns, six are to be within sixty miles of London, two in Durham, two in Scotland Aycliffe in Durham is already in progress If a private owner wishes to develop his land, he must get a permit from the planning authority and pay a stiff fee The motive is to stabilize the price of land, the effect will be to stifle initiative A Central Land Board has funds to compensate owners who are dispossessed The hope for the new

towns is to mix the income groups and prevent the emergence of Mayfairs and Whitechapels

The plans are good but the difficulties in the way are enormous The expense is staggering, labor and raw material are lacking at present Great opposition has come from people on the spots chosen for development and highly reluctant to see an influx of urbanites in their communities But it is hard to deny the need for planning and the possibility of considerable improvement through it [20]

[20] *Postwar Britain, 1948-49,* pp 27-35 Recent developments in the departments are noted by Wilfrid Harrison, *The Government of Britain* (London, 1948), chap 6 Some details of interest are in Jennings, *op cit*, pp 417-435

# Chapter 10

# The Courts

ENGLAND has three kinds of law common law arising from custom and judicial decisions, statute law from acts of Parliament, and equity from decisions of chancery in cases where the law worked a hardship or did not exist Of these, statute law is the highest, an act of Parliament can alter points of common law or equity In respect of subject matter there is a difference between civil and criminal law Details of classification are complex and elude exact definition, and the lawyers often group the laws by the penalties prescribed by Parliament, leaving the layman in the dark about underlying principles In general, we may say that civil law deals with disputes over property unaffected by violence, and criminal law with injuries to persons and property by force or deceit In civil cases, the state is content to do justice, in criminal cases, it exacts a penalty over and above the reparation sought by the injured individual For this reason the crown may pardon a criminal but not interfere with civil proceedings Violations of traffic laws are classed as crimes for reasons of expediency, usually no one is injured but many would be if the laws were not enforced [1]

The lowest institution of a judicial sort is the coroner's court There are about 350 coroner's courts in England and Wales The coroner is a doctor or lawyer, appointed by the county or county borough council and removable only with consent of the Lord Chancellor He holds inquests on unexplained deaths and treasure trove, which troubles him very little Over the deaths, he may sit with or without a jury These view the body, learning little from it as a rule, and hear the witnesses The coroner asks questions and sums up, the jury gives a majority verdict, if twelve agree It is not always easy to get a jury on short notice, and recourse has been had to the inmates of the workhouse for the purpose If the verdict is murder or manslaughter, the coroner issues a warrant of committal for trial against the person indicated (if any), and the crown will prosecute him Of course the police will prosecute for homicide

[1] Crime is not a difficult problem, in 1939 there were about 80,000 serious crimes and 84 cases of murder and manslaughter The people respect law and consider crime a disgrace

if they think the evidence worth taking to a magistrate, and the coroner's committal is unnecessary The rules of procedure in a coroner's inquest are lax and may lead to a sort of irregular trial without the safeguards of a court

The lowest bona-fide courts in the country and many towns are those of the justices of the peace (J P ), 20,000-odd men, 3000 women These officials are appointed by the Lord Chancellor (or the chancellor of the duchy of Lancaster for his area) on the recommendation of the lords lieutenants of the counties, who are guided by local advisory committees The committees are controlled by the three party organizations and tend to favor Conservative, Labour, or Liberal party workers In the counties, they include a few of the gentry who have almost a hereditary claim to the honor, in towns the secretaries of trade unions There is no pay and often no allowance for expenses The courts are held in the daytime and require at least a temporary freedom from mundane occupations Accordingly, it is difficult to find poor men and women with the interest, time, and ability to serve and not much easier to find professional or mercantile candidates Most J P 's must come from the well-to-do groups or those not tied closely to offices, shops, and industries and are most easily found among the elders of the community There is no age limit, in the 1930's one magistrate celebrated his hundredth birthday sitting on the bench, and a J P of sixty is a youngster The chairman is often the senior by age and the most afflicted by infirmities Of these the worst for the purpose is deafness, and deaf chairmen have been extraordinarily persistent Ex-officio J P 's tend to be junior—mayors, ex-mayors, privy councilors, chairmen of councils (county, county-borough, and district) In the administrative county of London there are twenty-seven metropolitan police magistrates to do the duty in the metropolitan police courts, they are former barristers and on salary Towns over 25,000 may have a similar system, each may employ a stipendiary or paid magistrate, a barrister by profession, to do petty sessions work, and a recorder for quarter sessions But only seventeen such places had stipendiaries in 1949, leaving the J P 's the favorites We may add that the stipendiary often dispenses free legal advice for half an hour before court opens

Out of sessions, i e , in his own house, a J P may grant warrants for arrest and search and take declarations and oaths but may do no judicial work By himself in session, he may grant bail, bind over for a higher court, inflict penalties up to £20 fine and fourteen days in jail Two or more J P 's hold petty sessions and must sit in a courthouse In the counties, the J P 's arrange the areas for the petty sessions and for the holding of a court in each, in boroughs, they take turns in the courthouse The stipendiary can sit by himself, but if there are other J P 's, they may sit and vote with him, as he is only chairman The metropolitan police magistrate is sole judge, the J P 's of his area may take a few cases, e g , about rates, separately

Petty sessions have summary jurisdiction, i e , act without a jury, of course

subject to appeal, and the J P 's judge both fact and law and may fine up to £50 and imprison for six months There are over a thousand such courts, they may take a few civil cases like disputes over rates and have a few administrative duties like transfer of liquor licenses but in the main do criminal work This is the tribunal for small thefts and assaults, drunkenness and disorderliness, and traffic violations and is often called a police court because the police are commonly the prosecutors and witnesses Serious offenders appear here also as birds of passage for the preliminary inquiry, i e , for the court to decide whether there is a prima-facie case against them, or they may undergo the experience elsewhere—in hospital, for example, if the magistrates are willing to sit there If there is a case, the court indicts the man, i e , makes a formal charge and remands him for a higher court with a jury, quarter sessions or the assizes in accord with the nature of the case If there seems to be no case, the court dismisses the man As he has had a mere inquiry and not a trial, he may be rearrested on the charge Some indictable offenses may be tried summarily or on indictment at the option of the accused, who usually takes the summary trial If he knows he has no defense, he may cut the agony short in this way

We presume that there is a trial and that the defendant is present, having obeyed a summons or accompanied the police on their warrant for arrest or being already in custody The magistrates (or the clerk) state the charge to him and ask whether he pleads guilty If he does, the officers will recount the circumstances to the bench to help in assessing the penalty The defendant may also address the bench or give or bring evidence to show that he deserves leniency

If he says "Not guilty," the trial proceeds The solicitor for the prosecution opens the case, tells his story, and indicates the nature of the evidence The witnesses for the prosecution are called, examined by the prosecuting solicitor, and cross-examined by the defending solicitor At this point the defense may submit no case, i e , that proof is so weak there is no need to go on, and the bench must decide this point If they say there is a case, the solicitor for defense must call his witnesses for examination and cross-examination, and the prosecuting solicitor may call witnesses to rebut the testimony Or in default of witnesses, the advocate for defense may address the court by its permission The J P 's may retire to their own room to decide whether to acquit or convict If they wish to convict, they may ask the police for the man's record and declare a penalty in accord with it If they need to adjourn, they may keep the man in custody or let him go on his own recognizances, i e , a financial security that he will appear when wanted

If the proceedings are merely a preliminary inquiry, the prosecution opens the case and calls its witnesses The clerk takes the evidence in writing and the signature of the witnesses to their depositions The J P 's read the charge to the prisoner and ask whether he wishes to say anything, warning that what

he says will be taken down in writing and may be used in evidence at the trial The defendant may also give evidence and call witnesses for a record of their statements The magistrates now decide to let the man go, commit him to jail for trial, or admit him to bail, usually accepting the advice of the police on the point If they refuse bail, they must inform the defendant of his right to apply to a High Court judge He will generally not do so, preferring to save the fee for the expenses of the trial The depositions and statements are transmitted to the clerk of quarter sessions or assizes for their next sitting

The J P 's may also bind the guilty man over, i e , let him go for a stated period If in the interval he commits no offense, he is free, if he offends, he will get punishment for the two offenses They may let him deposit caution money or go on probation and report to the probation officer An appeal lies from the summary court to quarter sessions, or, more exactly, to the appeal committee of that body, or to the recorder in a town who holds special appellate sessions On a point of law, it is possible to appeal to a divisional court of the High Court consisting of three judges, and either side may do this

The J P 's may read up on the law with the help of circulars from the Home Office, but most of them depend on the clerks, nearly all solicitors and appointed by the magistrates whose courts they serve In 1939 there were about 940 of these officials, of whom only fifty were full-time out of the metropolitan area Many of them dominate the courts, they cross-examine witnesses, take the notes, and know more about the cases than anyone else A lawyer soon finds whether the clerk or some strong-willed magistrate is the key man in the court and acts accordingly If the clerk has the power, he has it without responsibility which is not desirable He has his pay from the county or the borough, which often gives him a lump sum to cover all expenses

Such is Great Britain's amateur magistracy, it has lasted for centuries Many reforms have been suggested in the system requiring the J P 's or at least the chairman to know some law, making sixty-five the age limit, putting all clerks on full time, and it is likely that something of this nature will be done The J P stays partly because he is cheap, partly because he expresses local opinion in the administration of justice Courts seem less alien under a local man than a man of the law from London

The local feeling of course has disadvantages Clerk and J P 's know the police personally and feel they must support them or at least give them the benefit of the doubt They will not listen to criticism of the veracity of police, they presume the defendant guilty, question him, and leave the police evidence untested A person wronged by the police need not apply to the J P 's for a summons against a constable for assault, he will do better to bring a civil action for damages in a county court Motorists, especially if strangers to the locality, suspect an alliance of police and magistrates against them and may not always be wrong They give the summary courts most of their work in normal times and often have poor opinions of them

Quarter sessions is a joint session of all the J P 's of a county, of whom two are a quorum, held four times a year under a chairman or deputy, who usually now has some qualification in the law Often twenty meet, and forty have been known, to the embarrassment of a new barrister, who finds himself addressing a mass meeting In the law, liquor and J P 's go together, and the quarter sessions issue new liquor licenses They take appeals from petty sessions (perhaps by a special committee), rating appeals, and short-of-grave crimes In large towns and some urban districts, this court is held by the recorder, a salaried barrister appointed by the Home Secretary, of five years experience at the bar and not necessarily full-time In 1948 there were sixty-four quarter sessions in the English and Welsh counties Of the boroughs, 257 had commissions of the peace of their own, and of these, 116 used recorders as sole judges In London city, the Lord Mayor, aldermen, and recorder form quarter sessions

The county of London quarter sessions are held at Newington, those of Middlesex at Westminster, each under a salaried and qualified chairman and deputy Quarter sessions and assizes used to have grand juries, but these are abolished now except in London and Middlesex for a few cases like offenses committed abroad The petty jury persists but is claimed by only 15 percent of persons indicted The others prefer a summary trial for its lessening of time, expense, penalty The police also prefer it and will sometimes mention only one out of two or three offenses in order to obtain a summary trial Quarter sessions may try all but the gravest indictable offenses, like homicide, which wait for the assizes Some cases may be tried in either court, as is convenient for all concerned

The assizes are courts held by judges on circuit from the King's Bench Division of the High Court or by a King's counsel commissioned in the place of a judge who is unable to perform his duties One judge may take both civil and criminal cases or a pair may travel together, one for each side, as the expression runs He or they make the rounds three or four times a year in accord with the business of the circuit

The sheriff or the solicitor, who is his paid deputy, has the agenda, the prisoners, and the jurors ready Probably the sheriff himself will welcome the judge with some ceremony and will have arranged an assize sermon at the church, he will be disappointed on sight of a mere commissioner Clad in levee dress, he may sit part of the time on the bench beside the judge But he will leave most of the work to the deputy, including the carrying out of judgments, the jailing of prisoners, the execution of those condemned to death, which is done by a professional hangman

Those may be jurors who have freehold property worth ten pounds a year or leasehold of twenty pounds or occupy houses with a rateable value of twenty pounds, or thirty in the London area—a small minority The theory is that only this group can absent themselves from their occupations without

serious loss The service is compulsory and unpaid and confined to the upper and middle classes The undersheriff calls a panel of thirty-six to sixty usually, he may work systematically through the directory or at random or have some scheme of his own For civil and some criminal cases he gets his jury for a particular case by ballot from the panel, in other criminal cases he picks and chooses The summons is an inconvenience to most of the jurymen, who must take leave of their businesses or professions The undersheriff wants a reserve for contingencies and so calls more than he needs and lets some of them wait hours or days only to tell them he does not need them now and will call them for the next session Anyone may be excused by the judge for good reason or eliminated by objections from either side to a case, but the opportunity for this occurs only after proceedings have commenced, when the man has arranged for absence from his work as best he could An obvious reform would be to equate the qualification with that of local government electors (to include the nonjudicial peers), spread the duty over a much wider field, pay the jurymen, and secure them against dismissal or other penalty by employers

The judge reads his commissions and makes a short address on the problems of justice in the area He wears his wig and gown, often to his discomfort, and proceeds with the agenda, case by case He asks the jury to dismiss from their minds anything they may have already heard of a case—not an easy instruction, since they have probably read about it in the papers and listened to the radio To preserve their impartiality they are kept from contact with outsiders while the trial lasts, they may order in a dinner at their own expense The prosecution is by police, a private person, or rarely by the Director of Public Prosecutions and is conducted by a barrister in a gown The defense is managed by another barrister or counsel, also gowned, the procedure is similar to that of petty sessions The judge watches to see that neither side confuses the jury, plays on emotions, or takes to irrelevancies and that the witnesses tell only what they know themselves When the prosecution has finished its case, the defense counsel may claim no case If the judge agrees, he will ask the jury to find not guilty, which will conclude everything

Usually the counsel for defense states his version of the facts and calls witnesses for examination and cross-examination After the evidence, the two counsels make speeches, the one for the prosecution will have the last word unless the accused has no witness except himself The judge delivers a summary of the case to the jury in the full knowledge that the prisoner may appeal a conviction and question the fairness of his presentation He usually allows his opinion to be discerned and warns the jury to bring in a verdict of not guilty unless guilt is proved beyond reasonable doubt The jury may give a verdict at once but generally retire to argue it out to a unanimity If they cannot agree, the case will need retrial with a new jury If they say not guilty, the prisoner is discharged and cannot be tried again on the same accusation,

even if he should confess If the verdict is guilty, the judge pronounces sentence, and for the task he has information from the police about the prisoner's record which is withheld from the jury A verdict of insanity means acquittal and confinement

The assizes in London are the sessions of the Central Criminal Court in the Old Bailey On paper this court is an extraordinarily mixed body, in practice it is a judge of the King's Bench, the recorder and the common sergeant of the city of London, and a judge of the city of London court, which has the standing of a county court The common sergeant is a qualified barrister paid by the city corporation, like the recorder The four judges sit separately and can hold four courts at the same time, the judge from the King's Bench division takes the grave accusations, said to be put on the judge's list This Central Criminal Court acts as quarter sessions for the city of London, it holds twelve sessions annually, i e , is virtually continuous It has a jurisdiction over the home counties and can try offenses committed on the high seas or abroad, offenses against the Official Secrets Act or the Corrupt Practices Acts, and homicides occurring in the exercise of military authority

Until 1908 there was no regular appeal from a verdict at the assizes although the thing could be done in devious ways An act of 1907 created a Court of Criminal Appeal which now consists of the Lord Chief Justice and eight judges of the King's Bench, three being a quorum The prisoner who wishes to appeal must obtain leave of either the court which has tried him or the Court of Criminal Appeal itself This tribunal cannot order a new trial but can change a sentence as it pleases, hear fresh evidence, and quash a verdict on points of law or procedure It can also refuse to quash on a mere technical point if it thinks that substantial justice has been done There is no jury and the business is short

Ordinarily, the case ends here, but the Attorney General may certify an appeal to the House of Lords on a point of law of importance to the public He does this sparingly, on average in less than one case a year The Lords for this purpose consist of the Lord Chancellor, nine (since 1947) lords of appeal in ordinary on salary (the law lords), and any peers who have held high judicial office and care to participate without pay, the quorum is five The last group are mostly Lord Chancellors out of office in a political overturn The law lords may sit at any time, not only during sessions of the House of Lords, if they sit in session they do so in the mornings or early afternoons, before legislative business begins Finally, the Home Secretary may abolish or reduce sentences or pardon a prisoner at any stage of his experience in confinement [2]

Most prosecutions are by police, informed by aggrieved persons and satis-

[2] H Slesser, *The Administration of the Law* (London, 1948) chaps 5, 6, has a short sketch, R M Jackson, *The Machinery of Justice in England* (New York, 1940), has a fine extended account, chap 3

fied that the charge will bear a court procedure The chief of police appoints some man on the force to prosecute He may simply lay the evidence before the J P 's or manage the case entirely—call the witnesses, question them, question the defendant if he cares to give evidence, and address the justices Or he may hire a solicitor or a barrister and must do so if the case goes before quarter sessions or assizes In these cases, the police tend to give the work to persons or firms who are known as police or county solicitors Boroughs often find it convenient to assign the work to a solicitor already in their employ A private person may suspect that the police are lukewarm in helping him against a wrongdoer, e g , in case of assault without serious injury He may institute a prosecution and manage it himself in a summary court at little expense Beyond that, he must hire a solicitor and a barrister and will be much out of pocket even if he wins the case A trial court can order repayment out of public funds in case of a conviction but never to the amount laid out, and in these circumstances almost the only groups to conduct their own prosecutions are wealthy corporations and government departments

There is a Director of Public Prosecutions with a staff appointed by the Home Secretary On the order of the Attorney General or a Secretary of State or at his own discretion he may prosecute someone or intervene in a prosecution already begun But he confines himself within narrow limits and prosecutes only where justice may fail or a point of public importance is involved In 1937 he prosecuted 659 persons for indictable and 107 for non-indictable offenses out of the 95,000 prosecutions of that year He issues briefs to a few counsels nominated by the Attorney General and called Treasury counsel They have nothing to do with the Treasury and are paid by fees, they have the name from the circumstance that the solicitor to the Treasury once managed government prosecutions The director's operations have not hitherto been of great use to the public but are easily capable of extension

Civil cases have a less complicated route to follow The litigant must consult his solicitor on whether the case is for the county court or the High Court The division of litigation between the two is a complicated matter but goes largely by the amount of property at issue If the High Court finds a case before it that can be managed by the county court, it will send it there and may allow unlimited jurisdiction In most cases, accordingly, the civil litigant begins in the county court These courts have no relation to the traditional counties but were set up arbitrarily in 1846 and numbered 459 in 1939 in England and Wales with fifty-eight judges, appointed by the Lord Chancellor from the barristers of seven years' standing There is a salary of £2000 a year and a pension up to two-thirds of it Each judge has a circuit which may vary from one court in the nine metropolitan districts to fifteen in one region of the eastern counties, and he holds court at least once a month The Lord Chancellor has power to alter the number and limits of the districts and the

places where court is held Each court has a registrar chosen from the solicitors by the Lord Chancellor, who decides his salary and may permit him to continue private practice The registrar is head of the office staff, may hear cases up to ten pounds' value, and thus disposes of one-third of the contested cases

The county court takes contract actions, debts, and damages up to £200, equity matters to £500, land titles up to £100 a year of rent or value, adoptions, guardianships, ordinary bankruptcies except for London and Middlesex, which have a bankruptcy court, and collection of small debts, which is its principal business Here come the disputes about rents, contracts, compensation, and wages of interest to most people A million and a quarter proceedings are started each year but only about 30,000 are contested, the threat having induced a settlement in the other cases Litigants may claim a jury of seven persons but few do, in the interest of time and money, in 1936 only seven juries were required for over 28,000 cases Since 1934, appeals from county courts go directly to the Court of Appeal, not, as before, roundabout by way of the Kings' Bench Division

There are a few borough and local courts of long standing which remain besides the county courts The Tolzey Court of Bristol, the Court of Passage of Liverpool, the Hundred Court of Salford, the Mayor's and City of London Court do much business and save litigants the trouble of going to a high court The last institution, as Mayor's Court has unlimited jurisdiction in contract, tort, and recovery of land in the city, as City of London Court, it is a county court All these courts have qualified judges

Ordinary civil actions above the county court level may be heard in the King's Bench Division or at assizes The first step is to get a writ from an office at the Law Courts in London or at one of the ninety district registries of the High Court in the provincial towns The writ is served on the defendant who "enters an appearance" by filing a document at the office Usually all the arrangements are made by the solicitors and the writ is served on the defendant's solicitor, the actual parties having nothing to do with procedure until the trial The solicitors will go to the registrar of the district registry in the country or to a master in the Law Courts in London, who will direct trial in London or at some assize court as is most convenient for all parties

The plaintiff sends a statement of claim, the defendant sends him a defense This leads to an exchange of inquiries under control of officers of the court and called pleadings, e g , the defendant may be required to produce "particulars," information of what he proposes to prove If the defendant does not defend, the plaintiff may enter judgment against him on a default summons in the county court, and most actions, once started, end in this way or are settled But if the case is going on, the solicitors interview the witnesses, record what they will say, and negotiate with whatever experts they will need Each prepares his brief for his barrister or counsel—a bundle of papers in-

cluding an explanation of the case and copies of documents and of statements by witnesses They also make arrangements for witnesses to attend trial, some to come voluntarily for their expenses, others coerced by a subpoena The latter may be poor evidence, holding a grudge and taking it out by saying as little as possible

When the day in court comes, the plaintiff's counsel opens the case, tells his story, and calls witnesses for examination and cross-examination Defendant's counsel opens his case, proceeds in the same way, and summarizes his arguments and the evidence, and plaintiff's counsel has the last word If the defendant has no witnesses, the plaintiff's counsel makes his final speech after the witnesses, and the defendant's counsel follows with his comments If there is no jury, the judge announces his decision shortly Either party may have a jury, a common jury or a special jury, e g , of businessmen presumed to have knowledge of the matters involved, for which a special fee is exacted Proceedings for a jury are longer, to let them grasp the points made and to allow the judge to sum up The judge may ask the jury to give a general verdict or to answer specific questions At the end, he may give a lecture on the points of law involved, direct the disposal of the property, and assign costs He may reserve judgment to think about it and consult his books, after which he will write an opinion and read it in court Appeals from the assizes go to the Court of Appeal Procedure is less formal than in criminal cases, as only property is involved, and at any stage the judge may recommend a settlement out of court and adjourn the court for the purpose

Most judgments are for payments of money If the defendant fails to pay, the plaintiff resorts to execution by having the property seized and sold or may apply to have the man committed to jail for a period This is used as a threat in the county court to induce friends and relatives to raise the money and is undoubtedly subject to abuse The defendant can go bankrupt and escape the jail but may decide that jail is cheaper This seems to happen especially in alimony cases

Above the assizes is the Supreme Court of Judicature established in two divisions by the act of 1873 (a) the High Court of Justice, with thirty-two judges in 1948, each called Mr Justice, and (b) the Court of Appeal The High Court of Justice contains three divisions (1) King's Bench, composed of the Lord Chief Justice and at least sixteen puisne or assistant judges, (2) Chancery, presided over by the Lord Chancellor or the Master of the Rolls as his deputy and containing at least five judges, and (3) Probate, Divorce, and Admiralty, consisting of a president and at least two others The actual number in a division depends on the business on hand, P D A often needs eight.

The judges are appointed for life and are removable only by address of both houses of Parliament King's Bench and Chancery administer both law and equity and have an overlapping jurisdiction King's Bench has actions for

large debt or damage and commercial cases, Chancery has bankruptcies, trusts, partnerships, administration of estates of deceased persons, and wardships of infants, which bring it into the pages and songs of *Iolanthe* Much of its work is merely giving a rule on some point raised by trustees and executors and not controversial

Probate, Divorce, and Admiralty is a combination which never fails to excite wonder and wit at its assortment of unrelated topics It has absorbed probate and divorce from church courts and maritime cases from the admiralty courts which dealt with property damage at sea Probate gives a valid title to the property of a deceased person, it "grants probate" to executors to divide the property or "letters of administration" to someone if there is no will or no executor named in the will In most cases there is no dispute, if there is a dispute, Probate will decide it The contestants may have a jury but do so in only 5 percent of their cases Divorce gives decrees of nullity of marriage, judicial separation if that is all the parties want, presumption of death, e g , on seven years' absence, or, for children, a decree of legitimacy Petitioners for divorce may have a jury but want it in only 5 percent of the defended cases

Attached to the High Court are three official referees who will make a report on some point or try a case at the request of the court Their court ranks as a sitting of the High Court and takes about a hundred cases a year

The King's Bench has a wide original jurisdiction and many direct applicants Three of its judges are a divisional court of the King's Bench for appeals on points of law from summary courts and quarter sessions The King's Bench keeps the lower courts in order by orders (not writs any more) of mandamus, prohibition, certiorari, quo warranto *Mandamus* requires inferior courts, bodies, and persons to perform public duties, e g , a county court to hear a case which it has refused or a borough to levy a rate *Prohibition* forbids an inferior court to hear a case not in its competence *Certiorari* brings the proceedings of a lower court before the High Court for review *Quo warranto* challenges the authority by which a person holds a public office King's Bench can move a case from one assize or quarter sessions to another on a simple order if there is reason to believe that justice will not be done in the first locality For cases of high importance like treason, King's Bench can order a trial at bar before three judges and a jury A short procedure is possible before King's Bench when the aggrieved person is an official The Attorney General may file an information, a written allegation of misdemeanor which dispenses with the preliminary inquiry and may leave the defense in some doubt of the evidence until the trial opens

The judges of King's Bench go out for assize work, civil and criminal, one goes to the Old Bailey each session and from three to eight to the Court of Criminal Appeal One judge is a specialist in commercial matters and holds what is termed a commercial court in London, another takes the revenue list,

chiefly income tax cases One judge "in chambers," i e , in his room, deals with routine work like appeals from masters and may spend two days a week at it, and altogether the judges have plenty to do They give priority to circuit work and the Court of Criminal Appeal and are likely to defer a case that promises to be long if it conflicts with these duties Litigants and witnesses frequently experience delays and postponements, for which the only remedy appears to be more judges

Chancery holds all its trials in London except that palatine courts in Durham and Lancaster serve much the same purpose, and it does not appear overworked P D A also stays in London except that undefended divorce suits and those for poor persons can be heard at assizes by the King's Bench judge, and it also is equal to its work The Admiralty section has one judge who gets technical advice from two professional sailors, often from Trinity House He tries about a hundred cases a year, all without juries and generally involving substantial sums, and draws much less public attention than his colleagues in the other sections A few firms of solicitors and a few barristers handle all the admiralty work

The Court of Appeal (from the county and high courts) has a number of ex-officio members like the Lord Chancellor and the Lord Chief Justice, who rarely attend, and in practice it consists of the Master of the Rolls and eight Lords Justices of Appeal Three justices are competent to hear an appeal, and three sections sit simultaneously and hear the cases The court does not listen to witnesses, it examines the records of previous trials and hears the counsels An appellant may ask for reversal of a judgment as wrong in law, or, if he has had a jury, for a retrial before another jury

There can be no appeal from this court except by its leave or by leave of the House of Lords, i e , the law lords, the highest tribunal in the land, where procedure is by petition The law lords hear appeals from the Court of Appeal and the Court of Criminal Appeal in England, similar tribunals in Northern Ireland, and the Court of Session in Scotland, which handles civil cases only In these conditions, there are usually two Scots and a Welshman among the law lords The lords sit in their own house and hear the counsel from the bar, they have what is said to be the most inconvenient courthouse in the country They proceed as if they had a bill before them—discuss the arguments, make speeches at judgment, and come to a vote They require all evidence to be printed and bound into volumes, which makes a case costly

Cases from the church and the empire go to the judicial committee of the Privy Council, consisting of the Lord Chancellor, the Lord President of the Council, the lords of appeal in ordinary (law lords), and the members of the council who have been judges, like ex-Lord Chancellors It has also had judges from India and the dominions to a total of about twenty, all on salary. The litigant petitions the crown for leave to appeal to it and gets judgment in the form of unanimous advice to the crown The judicial committee takes

cases only from those dominions that care to use it and chiefly in constitutional matters Its correction of injustice is often in respect of the crown colonies

Formerly the House of Lords had other judicial functions It was the jury in impeachment cases but has had no work of this sort since 1805 It was a court for trial of peers accused of felony or treason under a statute of 1541 and had as president the Lord High Steward or the Lord Chancellor commissioned to act for him The public had some amusement out of the evidence about noble lords and some annoyance that they escaped the courts for ordinary mortals But the arrangement was canceled in 1948 and now peers stand trial in the ordinary courts

The Lord Chancellor, chosen by the Prime Minister, is head of the judiciary in a sense and a cabinet officer at £10,000 a year and a pension of £5000 He gives up the salary and gets the pension when the administration changes, no matter what his age, and is expected to make himself useful in appeal work but need not The Prime Minister nominates the law lords, the Lords Justices of Appeal, the Lord Chief Justice, the Master of the Rolls, and the president of P D A , no doubt on some advice from the Lord Chancellor This eminent official chooses the puisne judges, the county court judges, and the district registrars of the High Court, the Home Secretary appoints recorders, stipendiaries, and metropolitan magistrates and is likely to ask the Chancellor's advice The Lord Chief Justice gets £8000 and a pension of £4000, the Lords of Appeal and the Master of the Rolls £6000 and £3750, the Lords Justices of Appeal and other superior judges £5000 and £3500 respectively There is no age limit and they may retire when they will

Court staff appointments are made by the heads of the courts, e g , the Lord Chief Justice for King's Bench, and each judge appoints a clerk and secretary for his own service The higher of these staff posts, like masterships, require solicitors' or barristers' qualification and carry salaries up to £1500, as well as better hours, vacations, and pay than the civil service of a corresponding grade They are objects of keen competition and tend to stay in judicial families One Lord Chancellor appointed his own nephew, and in general it seems that sons of judges have a remarkable affinity for these places Whether this is pure coincidence is too difficult a matter to be settled here The lower posts carry entry requirements and salaries like those of the corresponding grades of the civil service and are not the object of nearly so much effort

Out of the ranks of the lawyers, there is dissatisfaction with the organization of the judiciary and the courts The division of jurisdiction now rests on the ability of the litigant to pay costs rather than on the difficulty of the cases or their importance to the litigant Proposals for reform include a Ministry of Justice to take charge of the administration of justice and relieve the Lord Chancellor, the Home Secretary, and the chancellor of the duchy

of Lancaster of their shares in this work Professor R M Jackson suggests abolition of the High Court, the assize courts, quarter sessions, and county courts The country might be divided into districts with a group of judges in each, hearing the lighter cases in country courthouses, the heavier in the chief towns The ordinary court for civil cases would be a single district judge with or without a jury and having a jurisdiction like that of the present county and high courts For indictable offenses there would be three district judges and a jury, and a court of three district judges would hear appeals from summary courts Perhaps a hundred judges would be needed at £2000 a year One court of appeal would take both civil and criminal work and would draw its personnel from district court judges and practicing barristers, assuming their continued existence The pay would be £5000 Right of appeal to the House of Lords would be drastically restricted This scheme is probably too neat and simple for immediate acceptance and would be unwelcome to the lawyers, but it indicates the path of possible reform [8]

In England there are two grades of lawyers solicitors and barristers, the former assumed to be not quite so learned and gentlemanly as the latter The solicitors are governed by the Law Society, which took its present form in 1903 and is at once their professional association and the channel through which Parliament controls them By the regulations of the society, a boy who wishes to become a solicitor must find a solicitor in practice for at least five years who will take him as an articled clerk, pay the solicitor a fee or premium of £200 to £300, and pay the government £80 for a stamp on his articles The five years may be shortened by a high standard of education, to three years for a university graduate A few firms will not demand the premium, a few will return it in the form of a salary in the last year of service, the others keep it and pay the clerk nothing, arguing that it is for his schooling The boy must also attend a law school, either the society's school in London or one at a university, for at least a year The society insists that the examinations from its London school be conducted by practicing solicitors, not by the teaching staff The teacher is teaching for someone else's examinations, which are narrowly practical, the student is wondering whether a coach would not serve him better and whether he need pay any attention to the lecture The university law schools set their own examinations, perhaps with help from colleagues elsewhere, those at Oxford, Cambridge, and London are especially good and give courses open to non-law students

The would-be solicitor also takes some general examinations and two sets of professional ones, of which the final is difficult Having passed it, he is admitted to practice by the Master of the Rolls and pays twenty-five pounds to the government and five pounds to the Law Society Every year he must

[8] Slesser, *op cit*, chaps 1 and 2, for civil courts and procedure, Jackson, *op cit*, chap 2, for these subjects and pp 325-327 for reform of the courts Slesser has an account of the common writs

get a practicing certificate and pay nine pounds if he lives in London, six pounds if he lives out of it, and a pound to the Law Society in either case if he becomes a member, which most do In all he must find £300 to £400 in cash in addition to his keep while articled

Usually he gets a job with a firm or with the central or local government at not much over £200 a year for two or three years In his late twenties he is likely to get twice that much and may set up for himself Nearly all solicitors make a living, a few become rich He may conduct a case in person in the summary courts, the county courts, and a few quarter sessions, and for cases beyond these courts, he does the spadework—prepares documents and evidence and engages a barrister for the oral work in court Most of his work, however, is likely to be in the office with the legal apparatus of everyone's business, e g , contracts, conveyances, mortgages, wills In a small town the solicitor comes to know a good deal about everybody and stands beside the clergyman and the mayor in local dignity For his possible misbehavior, the Law Society has a discipline committee with rules approved by the Master of the Rolls It may fine him, suspend him, or strike him off the rolls, subject to an appeal to a court

The would-be barrister has an easier time He enters one of the four Inns of Court in London—Gray's Inn, Lincoln's Inn, Inner Temple, Middle Temple —pays the fees, and keeps four terms a year for three years by eating six dinners a term in his Inn He need not study law or attend a law school, he may attend a university, in which case he will eat only three dinners a term but need not study law There are lectures given by readers under direction of the Council of Legal Education, chosen by the benchers or governors of the Inns of Court, and there are examinations But the lectures are optional, they are elementary and are directed at the examinations, which are not hard The successful candidate receives his call to the bar, but forthwith he must find a practicing barrister to take him as a pupil at the rate of fifty guineas for six months—a process called reading in chambers Under the guidance, he will read law, inspect legal papers, draw documents, attend cases, and, in short, obtain his technical training

Now he is ready for a life bound by convention on all sides He sets up in chambers, i e , offices, he may not enter a partnership but may share a set of rooms with others and the services of a clerk who is really a business manager and takes his pay in commissions on fees The barrister has a monopoly of the oral work before the high courts, the assizes, and all but a few quarter sessions, but again this is pure convention He may deal directly with clients in only a few cases, he has the bulk of his work from solicitors and must wait their pleasure Being a gentleman, he does not negotiate the fee himself but leaves this menial detail to the clerk He cannot expect rapid success and will need support for four or five years He may with advantage undertake charity work for poor men, obtain experience, meet the solicitors,

and perhaps see his name in the newspapers, all of which may lead to better things The large outlay and little income for eight years or more tends to leave the profession in the hands of the well-to-do But of recent years these families tend to ignore the aroma of gentility about the bar and make solicitors of their sons to put them on their feet

On average, the barrister earns less than the solicitor, a few do very well and get £40,000 a year Those who get no advance in rank are called juniors, no matter how old they are After about ten years, the successful barrister hopes to take silk, i e , become a King's Counsel and wear a silk gown, though he will have nothing to do with work for the crown He is appointed to the rank by the Lord Chancellor, may charge higher fees, and may not appear in court save with a junior barrister, who gets a fee two-thirds of his He is now known as a leader and is at the top of the profession After age fifty, K C or not, he begins to think of a judicial appointment to round out his career and provide against the inevitable decline of earning power that comes with advancing years a judgeship in the High Court or the county courts or at least a recordership Here it is a help to have done work for a political party victorious at the polls or to have attained distinction by research and writing The post will carry prestige, the salary and pension will remove financial care from him until he is gathered to his fathers If unhappily he is guilty of unprofessional conduct, he will draw the notice of a general council elected by the practicing barristers They will report him to his Inn, which may suspend him or remove him from their lists

There is much discussion about the maintenance of two grades of lawyers The system badly suits the public, who pay fees to both sets for work which often one could perform It may not even be in the interest of the profession, which might enjoy a large increase of legal business if the costs were lower No doubt the underlying thought is of the gentility of court work as opposed to the drab routine of making out legal papers, but this ought not to be the final argument Amalgamation such as exists in other English-speaking countries is desirable and may come in time The Law Society and the law schools in touch with it do something to justify their existence, the Inns of Court probably do not They might well improve their teaching and undertake advanced studies [4]

Another matter of discussion is the costs of legal proceedings The costs of criminal courts are paid out of public funds, the receipts from fines being a petty fraction of the whole The central government provides the judges above quarter session level, the local authorities provide courthouses, salaries of staffs, and costs of prosecution

In the civil courts, the litigant pays court fees, the expense of getting evidence and bringing witnesses to court, the charges of the solicitor and the counsel, and the expense of jurors, if any, the government supplies the

[4] Jackson, *op cit* chap 4, Edward Jenks, *Book of English Law* (Boston, 1929), chap 6

judges The Lord Chancellor and a committee of High Court judges fix the fees for the high courts, any surplus being handed to the exchequer Parliament will look after deficits and in any case makes a token vote of £100 in order to get up a debate on the courts County court fees are fixed by the Lord Chancellor and the Treasury There is room for argument here whether these overhead expenses of the system of justice or at least a greater share of them should fall on the exchequer like those of other public services

The judge has a wide discretion in assigning costs after an action at law, he can even make the winner of a frivolous suit pay, or divide costs between the parties or order them paid out of a fund or estate, but normally he will give the winning party his costs The plaintiff's solicitor draws up a bill called the solicitor and client costs and sends it to the defendant's solicitor He may accept it and arrange payment or dispute the amount by "taxing" it before a registrar in the country or a taxing master of the High Court in London This official inspects the bill item by item in the presence of the solicitors and strikes out or reduces charges which he considers unjustifiable or excessive and so arrives at "party and party costs" and charges a fee for his services This is the amount which the defendant must pay A client can also have his solicitor's bill taxed but need not expect to do business with that solicitor again In a typical case before the High Court in the 1930's, the solicitor and client costs might be £240, the party and party costs £150 The plaintiff in getting the last sum from the defendant must still pay his solicitor £90 and will be out of pocket as well as time and energy He ought to have at least £400 in reserve for a High Court action—£250 for his own costs and £150 for the opponent if he loses

In these circumstances, an action is a misfortune from which many solicitors try to save their clients A good settlement out of court is preferred and many just claims are compromised to avoid the courts Where large sums are at stake, arbitration is common The High Court, generally the King's Bench Division in practice, helps it by staying actions pending arbitration and by giving opinions on points of law If a contract for arbitration is made, the court will consider it binding save for palpable misconduct of the arbiter or error of law and will give an order to enforce it The parties will often save much money and a good deal of time, as the arbiter can sit more conveniently for them than the judge

Many difficulties develop in an industrial civilization which the courts are not fit to handle Governments are compelled to make rules which would be ineffective if all infractions went to the courts with their leisurely procedure Parliament therefore confers on the administrative departments large powers to make regulations on specific topics The *Index of 1939 to Statutory Rules and Orders* reaches 1800 pages Inside the statute, the minister has a free hand to lay penalties on the population If he makes an oppressive rule, the aggrieved person must look to Parliament and will have

no difficulty in persuading some member to ask a question or move a resolution If the minister goes beyond the power assigned in the statute, he may be called to order in the courts, but he will not deliberately do this There are many tribunals under government departments which do the work of law courts, e g , the special commissioners of income tax The extension of national ownership under the Labour government has multiplied these and made them a normal feature of national life People often prefer them to the courts, as all costs are paid by the government and solicitor and barrister can be avoided Objections to the tribunals come usually from lawyers, who are not wholly disinterested They are spoken of as the new despotism, but as long as grievances can be aired in Parliament and undue assumption of power challenged in the law courts, they will not indulge in gross abuses

For many years worthy people have been concerned about the difficulties of a poor man before the law courts An act of 1930 permitted the magistrates to give a legal aid certificate for a summary trial or a preliminary inquiry and a defense certificate for trial on indictment, the cost to be paid out of county or borough rates The magistrates, however, proved reluctant to grant legal aid in summary cases, in 1937 they gave it in the proportion of only one case in 2669 They were rather more liberal for preliminary inquiries and trials on indictment, which are much fewer in number and will not throw such a burden on the rates

There are other means of aiding the poor man, e g , dockside briefs Any prisoner who can produce £1 3*s* 6*d* may select any of the attending counsel, who will conduct his defense irrespective of the means of the applicant, but this practice leaves almost no time to prepare the defense The Law Society and some provincial law societies have worked out a procedure, approved by the Lord Chancellor, for ninety poor persons' committees to lend assistance to the poverty-stricken who have to do with the High Court The applicant may not have more than fifty pounds (save in exceptional circumstances) and must not get more than two pounds a week in income (again, with exceptions), and he must be ready to pay witnesses' expenses Each committee has a list of solicitors and barristers who will take these cases for nothing The barrister may gain from experience and publicity, the solicitor gains only from the consciousness of helping a fellow man Most of the applications relate to matrimonial causes, and the procedure increased the statistics of divorce, but this should not be taken as indicating any social trend Some voluntary associations persuade a "poor man's lawyer" to give free advice on one or two evenings a week But the number of people who can get help in all these ways is strictly limited, it does not include the majority of workers and middle-class people who earn too much for the qualification and who would be ruined by a lawsuit [5]

The Labour government accordingly has passed a bill (1949) to provide

[5] Slesser, *op cit*, chap 7, Jackson, *op cit*, chap 5

free or part-free legal aid to everyone earning not more than £240 a year or with less than £500 in savings The aid would be for civil and criminal actions, for plaintiffs and defendants, but would not apply to libel or slander, breach of promise or the drawing up of leases and wills The litigant may be asked to contribute up to half the excess of his disposable income over £156 and all his disposable capital (not a house) over £75 The scheme has been under study by a committee and will be administered by the Law Society, it is expected to cost the government well over £2,000,000 a year for England and Wales It is hardly necessary to say that the lawyers are strongly in its favor

# Chapter 11

# *Local Government*

UNDER the act of 1933, a local authority is the council of a county, county borough, county district, or parish The county district is a non-county borough, an urban district, or a rural district Out of the London area there are now six kinds of local authorities 62 county councils, 83 county borough councils, 309 non-county borough councils, 572 urban district councils, 475 rural district councils, about 7000 parish councils, and in the London area there are the metropolitan borough councils and the City of London council, which is peculiar to itself Counties or shires, boroughs, and parishes antedate the Norman Conquest But the modern form of borough government arises from the Municipal Corporation Act of 1835, that of the counties from the Local Government Act of 1888, of districts from 1872, and of parishes from 1894 Each unit manages local affairs, e g , public necessaries and conveniences, and is a vehicle for the central government in its effort to raise the standard of living and enlightenment of the population In some matters, it makes its own policy, in others, it does what the government wants [1]

## *FRANCHISE*

Until 1948 there was a local government franchise and a parliamentary franchise, the former being narrower and not admitting persons who did not pay rates The Representation of the People Act of 1948 does away with the distinction, and now all persons with a parliamentary qualification have the local franchise Peers may also vote locally though not nationally A voter is twenty-one years of age, is on the register of local electors, and has resided for two months or owned or occupied property in the area for that time Excluded are lunatics regularly declared to be such, convicts serving a year or more, and persons guilty of corrupt electoral practices even if at large The register is compiled by the clerk twice a year on the basis of a house-to-house canvass Persons likely to be absent on election day may make arrangements to vote by post

[1] *Postwar Britain, 1948-49,* pp 10-14.

## *ELECTIONS*

A candidate for local office must be a British subject, twenty-one, with a freehold or leasehold in the area and a residence of twelve months in it He is nominated by two electors, makes no deposit, and may spend what he likes on the campaign but must publish an account of it The returning officer or deputy takes the nomination, gives notice of the poll, publishes the names, addresses, and descriptions of candidates The election is by secret ballot, the voter has as many votes as there are seats to be filled The successful candidate will get no pay, but under the act of 1948 will enjoy repayment of expenses at the discretion of the council Borough elections have been in November, others in March or April, in future, county elections will be in April, others in May [2]

Local elections may be conducted without reference to party and return a nonparty council, but increasingly they are managed on party lines, especially in the boroughs The Labour party makes local programs or platforms and develops a coherent group of councilors under a leader as in Parliament Other parties may form citizens' coalitions against them but tend to rally under the Conservative party, which has a local government organizer and is imitating the Laborites Local and national party fortunes tend to move together, and local elections are a barometer for national ones Local affairs of course have influence—the rates, council housing, failures of administration But issues of both sorts together fail to draw out voters in large numbers The county boroughs may get out half of the list, other boroughs a third, a few districts as little as a tenth This is the chief problem of political indifference in Great Britain, caused by the feeling that what the council does will not matter much in any case The central government controls it closely through regulations, inspection, and grants and may even supersede it by commissioners in extreme cases

In general, local authorities manage local services of a practical or cultural nature like sanitation, drainage, garbage disposal, markets, museums, libraries Many undertake a public utility like water, gas, buses, tramways, but no longer electricity, which is under the Ministry of Fuel and Power Fire service used to be local, now it is the property of counties and county boroughs under control from London The local authorities manage a good many services under the central government like police, health, maternity and child welfare, housing, but no longer hospitals or poor relief

## *PARISH*

The parish is a church unit everywhere in England but as a local authority exists chiefly in the countryside There are about 13,000 rural parishes and

[2] J E MacColl and E C R Hadfield, *British Local Government* (London, 1949), p 60 In Scotland there is a limit on a candidate's expenses

more than 1500 urban ones excluding London We are concerned here solely with the rural parish and its population, consisting commonly of landless laborers, a few farmers, and a clergyman Away from the flow of industrial and commercial life, a survival from Tudor, Stuart, and Hanoverian times, the parish is an object of pity and scorn on the part of city writers and is no place for an ambitious boy or girl It is only when he addresses the people patronizingly as underprivileged inhabitants of a backward area that the urban orator discovers their good opinion of themselves and their countryside They are nearly always Conservative and embarrass the Labour propagandist by attending his meetings and singing "God Save the King" Some villages fulfill a Tory and church ideal by being without a single dissenter, Liberal or Laborite

The parish has enjoyed self-government only since 1894 If the inhabitants are fewer than 300, they manage affairs by a parish meeting of all the ratepayers, though they may have a council if they want one and if the county council approves The meeting elects a chairman and (commonly) two representatives to the rural district council or other rating authority and has these three as its officers The business is the rate, local charities, and resistance to some outside person or body who wants to improve the parish way of life There may be something about the water supply, lighting, footpaths, the village green, a parish hall and library, but many parishes do as little as possible about these complications of life If the population exceeds 300, it elects a council of five to fifteen members at the spring meeting and may make wards for the purpose, with permission of the county council The councilors meet four times a year and hold office for three years Several parishes may elect a council for the group and save time, money, and energy in the management of local affairs The only paid official—if any—is a clerk, the business is much the same as that of the meeting It is often difficult to find persons to serve on the council, and the people may elect residents of other parishes who live not more than three miles away The rates are rigidly restricted, the council may levy fourpence on its own authority, eightpence with consent of the parish meeting The limit probably makes no great difference to parish life, as only about a hundred parishes use the full powers in their hands There are about 6200 parish councils for 7200 parishes, and about 5600 parish meetings

## *RURAL AND URBAN DISTRICTS*

A group of parishes may form a rural district or, after a rapid increase in population, an urban district with consent of the county council If the church parish is unsuitable, the county council may form a civil parish with different boundaries Both districts elect councils by ballot, usually one-third at a time, but may get permission from the county council for all to

retire at once The rural district usually has a councilor to a parish, but may divide a parish into wards or unite two or more of them for the purpose, with leave from the county council The urban district may vote as a unit or by wards The council chooses a chairman, from itself or outside, who has the powers of a J P during his term of office It must have a staff, including a clerk, treasurer, surveyor, medical officer of health, sanitary inspector, and may levy a rate The chief business is public health in one form or another, and acting under the central government the council may deal with nuisances, slum clearance and housing, sewage, garbage, lighting, water supply, street cleaning, and may assign some of these duties to the parishes It may look after roads not cared for by county or central authority, it may own or share in ownership or management of such things as water companies or tramways It must provide schools, and should provide libraries There is little public interest in the rural councils beyond the negative one of keeping the rates down The members are usually farmers, they have no social or professional advantage or traditional prestige from their position, may regard it as an annoyance and do as little as possible Urban district councilors are business or professional men, often alive to the need of improvements and pleased at the opportunity to make them

## *COUNTIES*

The counties were for centuries governed by lords lieutenant and justices of the peace, the latter being both judicial and administrative officers and doing most of the work Both sorts were appointed, usually from the nobility and gentry respectively, and acted largely on behalf of the local circle of landholders This oligarchy persisted until the act of 1888 brought democracy into county government The act accepted the existing county lines but divided some counties into parts like the three ridings of Yorkshire and East and West Sussex, called administrative counties, to make sixty-two in all including London The other counties are entitled to this name also but do not need or use it Each county under the act has a number of electoral divisions, each returning a councilor at the elections held every three years for all the seats at one time The councilors so elected choose aldermen, equal to one-third of their number and either themselves or outsiders If they choose from their own body, as they often do, they must arrange by-elections for replacements The aldermen hold office for six years, one-half retiring at the time of each council election, and so acquire much experience of council work They include in their number persons who do not care to run in elections and so are said to draw on a quantity of talent otherwise unused This appears to be the only justification for the existence of aldermen, who sit and vote with the councilors and do identical work, and it may not be convincing, as there is little competition at elections anyway and always




From W E Lunt, *History of England*, Third Edition, Harper & Brothers, 1945

room for any respectable person who wants to be elected The enlarged council elects a chairman, who must be eligible for election to the council if not a member, has the powers of a J P during his term of office, and may get a salary Socially he does not rank as high as the mayor and is overshadowed by the lord lieutenant and the high sheriff Councilors do not get salaries but may have travel expenses

The council must meet four times a year by law and often meets no more, to save the members time and trouble It leaves the work of detail to committees and these again to the permanent officials who carry the burden of county government By law it has statutory committees a finance committee, an education committee, a public assistance committee, and a share in the police committee Except the finance committee, these bodies may coopt outsiders up to one-third of their number The council levies rates on the advice of the finance committee It has a clerk who is a solicitor and a staff of experts and employees, by an act of 1933 it must have a clerk, a treasurer, a surveyor, a medical officer of health, and a sanitary inspector, the last three approved in London

The council has a long list of duties, in regard to education, health service, public assistance, and housing, but carries them out in subordination to the central government Even the committee on agriculture is a humble servant to the Minister of Agriculture and his plan for the industry The council looks after county roads and bridges and has an eye to the lower authorities By the Local Government Act of 1929, a survey is made every ten years to provide for changes in their areas and boundaries The county councils confer with districts and boroughs on the topic and report to the Minister of Health, who will submit bills to Parliament so far as he approves of them By 1939, the number of urban and rural districts had been appreciably reduced

The powers of the councils were often used sparingly before 1939 Few persons want to be councilors in the rural regions Nomination is equivalent to election, and the gentry occupy the seats, much as they did before 1888 They did routine work well and whatever touched their own business with almost no favoritism or graft But they disliked anything not in accord with their traditional ideas, showed little interest in improvements and a vehement determination to keep the rates down They put up a passive resistance to small holdings and housing for laborers and used their energy in finding reasons for doing nothing Self-government in the counties was often a disappointment to reformers who had put the cart before the horse and neglected public opinion Now that the central government has laid a strong hand on the counties, we may see changes in the policies of county government It should be said that some county councils in urbanized areas like Lancashire and Middlesex have distinguished themselves by their energy and interest in improvement

### *LORD LIEUTENANT*

The office of lord lieutenant of a county persists with an atmosphere of great dignity and a wealthy country gentleman in occupancy He has charge of county records and recommends suitable persons to be justices of the peace, on the advice of local committees The high sheriff is in charge of the preparations for the assizes and quarter sessions but usually hands over the work to an undersheriff who is a lawyer on salary The J P 's do elementary judicial work, and they appoint half of the joint committee on police, the council choosing the other half The committee appoints the chief constable of the county, often a retired officer of the armed forces, and it organizes a police force, in accord with regulations of the Home Office The chief constable may call in the C I D (Scotland Yard) for a difficult case, as he often does in the first chapter of the detective story, but need not In an emergency, the justices may appoint anyone a special constable and even fine him if he refuses to serve, although they would gain no popularity in this way

### *BOROUGHS, MAYORS, AND COUNCILS*

Most boroughs have existed for centuries, some have been created in recent times, and the way is open for others A rural or urban district which wants promotion applies to the county council and the Minister of Health and petitions the King The minister and the judicial committee of the Privy Council look into the matter and may favor the application In this case, the charter may be granted by an order in council, but if as few as 5 percent of the ratepayers object, the district must seek an act of Parliament If it succeeds, it makes a celebration of the day on which it becomes a borough, with festivities, ceremonies, attendance of neighbor mayors, and choice of a notable local personage—if it has any—to be the charter mayor

The borough is governed by mayor, aldermen, and councilors It is divided into wards, each returning three or a multiple of three councilors One-third of the councilors retire each year, on the election date of their successors (possibly themselves, as reelection is common) The councilors choose aldermen to one-third of their number as for county councils, and council and aldermen choose a mayor from themselves or an outsider The mayor holds office for one year but is reeligible indefinitely He takes the chair at council meetings and keeps the members within their legal limits on the advice of the town clerk, a paid solicitor He does not settle policy, which falls to the majority of the council, or carry it out, which is the duty of the town clerk and his staff, nor does he appoint the local officials or employees He presides over the J P 's, if the town retains them, in his year of office and acts as J P for the year after

Primarily, he is the first citizen of the borough He represents it at important ceremonies, attends functions of churches, business organizations, private

societies, and charities, and subscribes to worthy causes He welcomes distinguished visitors, at times even royalty, and if he can induce the King or Queen to open a hospital, he will gain fame and possibly a knighthood He confers with other mayors on common problems, goes to London to give the town's view on its difficulties or on legislation and to promote private bills or oppose them At home he spends much time in the mayor's room in the town hall and hears requests, grievances, and suggestions All this is honor and also expense The borough usually pays him a salary now, in the past, it looked for a mayor who would work without it Here we may pay a tribute to the public spirit of wealthy men who were ready to undertake the duty and spend any sum up to thousands of pounds of their money for the good of the borough Understandably, they generally found one year enough The mayoress plays a large part in social activities and must be a good second to her husband If the mayor is a woman, she may persuade another woman to be acting mayoress, men being unavailable for the post The mayor is a bearer of a great tradition, he has much respect, a gold chain, and the title "Your Worship"

Like the districts, the boroughs have powers corresponding to their size Those over 20,000 may have a police force under a watch committee of councilors, those over 25,000 may have a stipendiary magistrate to replace the J P Those over 75,000 may get a private act of Parliament to become county boroughs with the powers of both a borough and a county council, independent of the county council of their neighbors They must show sufficient resources and stability of population and stand an inquiry by the ministry and the hostility of the county council, which loses money by the change Of these county boroughs there were eighty-three in 1948, they have often an intense civic life and are the best examples of local government Any borough may by ancient custom or royal order be called a city, this is only a dignity and brings no new legal powers, and is granted as a matter of course to towns which have a cathedral The mayors of eighteen famous cities are called Lord Mayors but are not peers The dignity of a borough is pleasing but expensive, and the services required of it may be had more cheaply from the county council For this reason, some districts eligible for the honor have never asked for it, and on occasion the agitation for a charter has been traced to the ambition of a would-be mayor or mayoress

## *CITY OF LONDON*

The city of London and the metropolitan area stand apart from other boroughs, London having been exempted from the Municipal Corporation Act of 1835, which standardized the charters The old city, the heart of the present London, has only about 10,000 residents and is so occupied with financial institutions that "the City" of the newspapers means the financial

community All owners of property in the city vote and swell the voting register The city has twenty-six wards, which return 200 councilors elected annually and twenty-six aldermen for life These are called the Court of Common Council and the Court of Aldermen, each including the mayor as chairman The Court of Aldermen form the bench of magistrates for the city and are justices of oyer and terminer, and the aldermen with twenty-nine common councilors are the Committee for the City Police and employ a commissioner for the purpose

Another body, the Court of Common Hall, consists of the mayor as chairman, the sheriffs, the aldermen, and the liverymen of the city companies, descendants of medieval guilds There are seventy-six of these companies or guilds now, of which only nine exercise any economic functions, the others are associations for social and charitable purposes This Court of Common Hall elects the sheriffs, the city chamberlain, who acts as treasurer, bridgemasters, auditors, etc, annually On Michaelmas Day (September 29) it nominates two aldermen, usually seniors, from whom the Court of Aldermen will choose the Lord Mayor, who must have been alderman and sheriff

The Court of Common Council is the governing body with its own police force, civil courts, and courts of summary jurisdiction These are held at the Mansion House, official residence of the Lord Mayor, fortnightly except in August and September, and at the Guildhall (until 1941) and are presided over by the Lord Mayor and aldermen, all of whom are ex-officio J P 's Much of the work of the city authorities is ceremonial, the King gets the city's consent to enter its confines, the Prime Minister speaks at the Guildhall banquet after the election of the mayor, the mayor has an annual pageant called his show and honors distinguished people in a conspicuous way The city is very conscious of its traditions and clings jealously to old forms The corporation is rich from its extensive property and high rates, as well as grants from government It does the usual borough services, is the sanitary authority for the port of London, controls the city bridges and the markets within seven miles, and has minor responsibilities of an antiquarian character

The guilds have about 10,000 members They used to spend much of their income on banquets, famed for their excellence, and much on education The son and daughter of a freeman are entitled to membership by patrimony, others can buy the freedom of a company Each company has a master, wardens, and a court of assistants The master and wardens are elected each year, the assistants are coopted and hold office for life There are three classes of members, ordinary freemen, liverymen who have paid for the right to wear the livery or uniform, and the assistants It is hardly necessary to add that a prime qualification is wealth [8]

[8] H Finer, *English Local Government* (New York, 1934), chap 21

## *METROPOLITAN BOROUGHS*

The administrative county of London dates from the act of 1888 and has a directly elected council In 1898, twenty-eight metropolitan boroughs were created within its area For elections they use the sixty single-member constituencies and the two-member constituency of the city for parliamentary purposes Each of the sixty divisions returns two London county councilors and the city returns four All these are elected every three years on parliamentary qualifications for voters and candidates The 124 councilors have twenty aldermen who sit for a six-year period Half retire every three years, and only ten are chosen at one time The aldermen need not be councilors but must have the same qualifications The chairman of the council may be an outsider and has the title "Right Honorable" The London County Council meets Tuesdays at 2 30, except for recesses in summer and other times, and sits commonly till 7 30 It gives its committees large powers and reserves a veto, but it has so much work that there is difficulty in manning the committees Each member puts in at least three half-days a week on the job gratis The council has an extensive civil service of nearly 100,000 persons in seventeen departments, organized and recruited in the fashion of the national civil service It has no control of main roads or police, which belong to the government

In the twenty-eight boroughs all councilors are elected at once for a three-year period in the same year as the L C C election They choose aldermen to make up one-sixth of their number, to serve six years (half to retire every three years as elsewhere), and a mayor who may be a councilor or an outsider with his qualifications They meet monthly and consider matters within their scope Some of them in poor areas acquired notoriety in the 1920's for their handling of relief problems, but they have duties of this sort no longer under the new acts of the postwar period

The borough council does most of its work by committees Each has a chairman and a clerk for the minutes and decides by majority, the chairman having a casting vote only A councilor commonly serves on two committees and may need to sit on more The committee, except the financial, may choose ratepayers up to one-third of its number to work with it, for the sake of expert advice It keeps in touch with the clerk and the treasurer if its plans involve money It reports back to the council, which accepts the report, rejects it, or refers it back for reconsideration Committees are of four kinds, statutory, standing, special, and joint Statutory committees are required by law like finance, education, health, standing committees are for recurring purposes, special committees are *ad hoc*, joint committees are for a common purpose with a neighbor council or public body Large towns have law and parliamentary committees to promote bills in Parliament and negotiate with

he central government, and it is a poor borough that has fewer than a dozen committees Committees need not admit the press and usually do not

## *MEETINGS OF COUNCILS*

The council meets at least four times a year and may meet any time on equest of mayor or chairman It picks the time convenient for most members nd has standing orders, on a model issued by the Ministry of Health Business s (1) reading of the minutes, (2) elections, if required, of a mayor, aldermen, committees, (3) questions directed at chairmen of committees about their business (4) reports of committees, discussion and action on them, (5) motions on new business, usually for a committee to consider and report on something In a nonparty council, discussion is ordinarily an effort to each agreement, in a party council, it is often a play to the gallery, the press, or the party Reporters may be present, in any case, the minutes are printed nd sent to the papers If the council wishes privacy, it goes into "committee of the whole" and closes its doors A councilor may easily spend two or three evenings a week on committee and council work

Councilors are unpaid, the feeling is that people of intelligence, ability, and spirit should do the work as a public duty The ratepayer respects them for he efforts and would despise persons who looked for pay as mercenary n small boroughs, almost anybody can do the work But in large boroughs, nonpayment tends to restrict membership to leisured or retired or unemployed persons, married women, directors, trade-union officials, among whom the Labour party inserts a few craftsmen and factory workers The substantial middle class is out, which is undesirable The married women are an asset, being interested in housing, health, and education more immediately than many men

## *EMPLOYEES*

The councils have large staffs of employees, about a million and a third for he country Each council must employ a clerk, treasurer, medical officer of health, sanitary inspector, surveyor, police, teachers, etc , and may have thousands on its pay roll, the lot coming generally under classification as experts, administrative workers, clerical workers, manual laborers There is no general tandard of recruitment, pay, or conditions of work, the common appointment s by interview The practice is under criticism, the L C C has standards ike those of the civil service and the government sets standards for experts, eachers, police A good number of councils have formed joint committees of council and staff for conditions of work, these are grouped into provincial odies and into a national joint council with the blessing of the Minister of Health and hope to imitate the civil service at some time in the future

The council must provide superannuation for its full-time officers on a basis of joint contributions The plans are coordinated and enable a man to

carry his pension rights from place to place The employees have a national association of local government officers which looks after their interests and tries to improve their work It has a secretary of education and a lending library, makes grants to universities for certificates or degrees in public administration, encourages its members to take summer courses, and publishes helpful material Local government officers under this stimulus have a ladder of promotion, move from town to town, and achieve greater responsibilities and salaries

The most important official is the clerk He is the chief adviser of the council and is usually a solicitor, to watch the legal bounds of activities He registers voters, births, and deaths He is not a coordinator of services, does not appoint other officials, and initiates no policy There is talk of making him a manager as in some cities in the United States but to date no action, for the councilors like their tradition of direct administration The heads of departments are specialists rather than administrators as in the central government, not from theory but from the need of saving salaries Class obtrudes itself into the relations of councilors and their high servants, the engineer may be called "sir" by a manual laborer on the council and be treated like a gamekeeper by one of the old gentry, but no doubt this difficulty is temporary

## *BY-LAWS*

A town council can make no law, but it achieves the same end by a private bill from Parliament or a by-law of a permitted sort Enterprising cities need many private bills and, to save time and expense, get omnibus bills with heterogeneous clauses A bill dealing mainly with tramways may have clauses to permit inspection of milk products, the establishment of reading rooms and of restaurants in parks, the prohibition of noise in the streets, and an increase in the number of sanitary inspectors If the bill is opposed, the expense and trouble may be considerable and the business good only for lawyers who find the parliamentary bar lucrative An unopposed bill may cost £3000, an opposed one up to £10,000

By-laws are of two sorts Some are made under act of Parliament to permit them—e g , for public health—and cannot come into force until approved by the local government board and the Minister of Health Other by-laws are for the good rule and government of the town and come into operation forty days after passage unless voided by the Home Secretary This provision is necessary, as councils have their foibles and may prohibit practices which are not objectionable in themselves, e g , the sale of articles by costermongers on the streets Most by-laws are of course defensible, the best-known of them deal with streets, buildings, markets, shops, lodging houses, theaters Even if a by-law has the sanction of proper authority and is not contrary to act of Parliament, it may be challenged by any citizen as unreasonable and taken to the central courts for a test Its status is always a trifle precarious

## *FINANCE*

Finance, of course, is as important to the local government in its own way as to the central government A good many boroughs have funds maintained by rents of land, interest on investments, fines, and dues Doncaster, for instance, holds much land and has rents that pay most of its expenses, but few communities were so far-sighted or fortunate Most local income is from rates levied by boroughs and districts Counties and parishes secure their revenue by applying to boroughs and districts respectively to collect a certain amount over their needs Every rating authority sets up a rating committee to decide the ratable value of property in the area and thereby continues the age-long argument about the principle and nature of the rates

National taxes are on all the wealth a man has, municipal taxes only on his visible property and chiefly on land and houses Furniture is neglected, the rate on a house assumes it to be empty, and there are many other fine points of the law which need not be discussed here The rating committee, of course, begins with last year's tables and considers whether changes are needed It takes the rent of the house or the annual interest on cost of building and site or the money annually earned by the building, i e , what the place brings or ought to bring every year to the owner It makes certain deductions like cost of repairs and considers the remainder to be ratable value It takes a look at the expenses of the borough w hich must be met out of rates and calculates the fraction of a pound ratable value which it must charge accordingly A penny in the pound of a ratable value of ten pounds means that the owner pays tenpence Factories and workshops since 1929 are reckoned at a quarter of their ratable value to encourage industry, and they leave the burden to domestic and commercial establishments The committee gets out a valuation list to inform each owner of his assessment and lets him appeal to an assessment committee, to which no member of the rating committee may belong The valuation lists are commonly revised every five years Appeals may go to the courts but rarely do

Occupiers pay rates, but poor tenants often pay the landlords a lump sum to cover rates and rent and are not aware that they pay rates at all The landlord makes deductions for the collection and hands over the proceeds to the borough or district The chief criticisms of the system are (1) that it falls on one item only, wealth or income and (2) that it penalizes improvements, which raise the assessment, and encourages neglect, which decreases it The criticisms are admitted but no satisfactory alternative appears The act of 1948 makes grants to equalize the rates as between poor and rich areas and provides for a central valuation on the basis of a reassessment of properties by the Board of Inland Revenue

A second source of revenue is grants by the central government The act of 1948 abolishes the old block grants and substitutes equalization grants to

be fair as between rich and poor areas Various departments make special grants, e g , health or education, and the Treasury assists with the cost of the voting register

A third source is municipal enterprise Many towns operate tramways or gas systems Birmingham has a municipal savings bank, and other towns have a long list of commercial or industrial ventures With permission from the central government, they finance such enterprises by borrowing, usually issuing bonds on long terms They must pay the interest out of current revenue and make town property available as security, and they must establish a sinking fund to wipe out the principal Sometimes they can obtain a guarantee of payment from the central government and for that reason may borrow more cheaply than private persons or companies The rule is rigid that they must pay their way year after year and borrow only on capital account, not for current expenses

The councils must appoint finance committees, and they have treasurers on salary to take charge of the receipts and sanction spending In March of every year the chairman of the finance committee makes a report to the council like the budget speech of the Chancellor of the Exchequer, and the council sanctions the rates for the next year A rate is not always what it seems, a high rate on a low assessment may cost less than a low rate on a high assessment The budget is not subject to revision or approval by a higher authority, but the same object is reached in other ways

To check the management of finance, the Minister of Health appoints and pays a number of auditors to whom the clerks of counties, districts, and parishes present statements of accounts until the previous March 31 These documents show receipts and expenses, the cost of the several services, and statistics of the debt if any If the auditor finds illegal expenditure, he may surcharge it, i e , require the councilors themselves to pay it They may appeal to the Minister of Health or to a central court The audit is public, open to any ratepayer who cares to attend or comment A borough may accept the official auditors or prefer a separate audit by a professional firm or by a committee consisting of one councilor and two auditors elected for the purpose by the ratepayers In any case, all public authorities must publish statements of accounts and send copies to the Minister of Health

## *SANITATION*

Health has local aspects, under care of the medical officer of health Councils generally supply water either by their own waterworks or by contract with a company, and he tests it If people use their own wells or springs, he should test these also The cost of water is usually met by a water rate Garbage is collected and disposed of, some councils use motor vehicles and disposal plants, others are content with horses, carts, and dumps, and all ought to be under the eye of the M O H The council may have public baths

and laundries, which need his attention also He has a care for infectious disease and wants to be informed immediately on an outbreak, and he may quarantine the house, remove the patients, and require disinfection He works with the sanitary inspector, who visits food shops and eating places and takes samples to him for analysis or looks over a house and reports to him on its fitness for habitation If both officers condemn it, the council will order repair or demolition

The councils used to do a good deal with housing under an act of 1936 but have lost it to the Minister of Health and act as mere agents, as will be described in the next chapter

Chapter 12

# *Economic and Welfare Policies of the Labour Government*

ON TAKING office in 1945, the Labour government hoped to reorganize and reequip industry and to promote welfare in accord with its promises It was not content to let the second wait on the first, but thought to do the two together, trusting that the industry would pay for the welfare Conditions seemed favorable in the disappearance of unemployment and the presence of great new markets The preparations for war and the war itself had put an end to unemployment and demanded the labor of everyone, including the women The demand continued, for the world was hungry for goods of all sorts and clamored for more than could be supplied The golden days of the nineteenth century seemed to have returned, when Britain could sell all she had The sellers' market did not last, and soon the government had to reckon with a difficulty unknown to such countries as Russia and the United States

## *ECONOMIC DIFFICULTIES*

Great Britain has few native resources of interest to outsiders coal, china clay, low-grade iron ore, some timber, and wool She must get from abroad the greater part of the raw materials needed by her industry and about half her food under a system of rations These two items make up about three-quarters of her imports She can pay for them chiefly by manufactures, which are three-quarters of her exports The basic industries for the purpose are coal, iron and steel, textiles, and engineering, on which the rest depend

The normal dependence on imports is aggravated by conditions arising from the war (1) an unusual reliance on the nations of North America for raw materials, food, and manufactures, (2) a rising cost of these very things, which required an increase in the price of what was sold, (3) a depletion of dollar reserves The difficulty was met in part by gifts and loans from Canada and the United States, by the European recovery aid from the latter country, by an austerity program requiring Britons to live on the minimum of imports, by diverting purchases from dollar to non-dollar countries, and by increased

production for export Imports from the North American countries were to be reduced to the value of the goods they took, food and raw materials were to be got from South America and eastern Europe, which are anxious for British manufactures

## *PLANNING ORGANIZATION*

To reach the desired ends, the government set up a planning organization to manage resources, man power, plant, finance, and commerce National ownership, reequipment, and development over a long period of time would be necessary for industries providing common service to industrial life or fallen into inefficiency or approaching a monopoly or socially dangerous These would be about one-fifth of the whole Other industry, and nearly all manufacturing, would remain in private hands subject to survey and control in the interest of the general plan One method of survey has been "working parties" of employers, employees, and consumers under instructions by government to seek defects and recommend improvements in organization and equipment Another recourse has been pilgrimages to the United States to study industry in that country—a touching tribute from socialism to private enterprise Agriculture would remain in private hands under a long-term program for better production Finance would be managed by a nationalized Bank of England and by control of credit and investment, commerce by close direction of imports and exports and by rationing the consumer

The government accordingly has nationalized the Bank of England, coal, electricity, gas, transport by road, rail, and water, and civil aviation and has a bill for the iron and steel industry It hopes to have a modern industrial plant in ten or fifteen years and to regain a leading place in world economy Agricultural production was to rise 50 percent by 1952 over the figure of 1938, exports to the same extent, and both without any intention of stopping there The best effort has been given to coal, iron and steel, textiles, pottery, and motor vehicles, for all of which targets were set In the first half of 1948, coal had reached its target, though not the tonnage of 1938, steel had surpassed its goal and made a record, motor vehicles and chemicals had done likewise Textiles were disappointing, wool was slightly below the target, cotton and rayon markedly so Exports in general were on the rise, so were imports, to produce them The program for the election of 1950 calls for the nationalization of sugar making and refining, of cement making, life insurance, "all suitable" minerals, water supplies, and meat wholesaling and storage, and promises to watch shipbuilding and chemicals and to absorb them too if they do not behave

The iron and steel industry is the pride of industrial Britain, efficient and noted for good relations between the employers and the half-million employees, who have had no major disputes for half a century The output per

worker is 28 percent higher than before the war The industry passed its target of fourteen million tons in 1948 and has made Great Britain the world's leading exporter of motorcars

It is already in close control and so vital to recovery and export that the Minister of Supply is in charge of it and the cabinet makes important decisions The British Iron and Steel Corporation buys imported iron and manganese ore and pig iron, Iron and Steel Disposals Ltd , another corporation, buys scrap The Iron and Steel Board operates the industry under the Minister of Supply, it has representatives of the industry and the trade unions, a Treasury official, and an independent chairman They supervise 2000 firms working in thirteen conferences, make plans, decide prices and policies

The present bill to nationalize the industry authorizes the government to buy the stock of 107 companies (the important ones) The companies would work under a government corporation with their existing names and management and might compete with each other short of danger to the general plan The 107 companies employ 300,000 of the workers and capitalize their stock at £195,000,000, for which the government would pay £300,000,000 The bill has been passed but cannot come into effect until after the election [1]

The Labour government has created an apparatus for managing the economy The cabinet keeps control and makes the important decisions, the Chancellor of the Exchequer has absorbed the duties of a temporary minister of economic affairs, and certain ministries and departments of state are in charge of particular enterprises or industries

The cabinet has committees for production, control of investment, etc The Treasury has an economic as well as a financial secretary and keeps economics and finance in coordination The Chancellor of the Exchequer receives reports from the chief planning officer and the planning staff and presents alternative plans from which the cabinet chooses

The Central Economic Planning Staff was created in May, 1947, composed of government officials, economists, and statisticians, some from the universities It makes an annual economic survey and a consequent report on the economy of the country, and is advisory only The Economic Planning Board, under the chief planning officer, advises on the use of economic resources for both short and long runs It consists of representatives of both sides of industry and senior officials of the Treasury, of the planning staff, and of the main economic departments It associates management and labor continuously with government in consideration of planning problems as a whole

Some departments concern themselves intimately with planning Before the war, the Board of Trade was the chief department interested in economic affairs, and during the contest it began to distribute these among other departments The Board of Trade keeps consumer goods industries, the

[1] *Postwar Britain, 1948-49,* pp 79-80, *69th Conservative Report,* pp 74-79

Ministry of Supply has capital goods industries (iron and steel, chemicals, engineering, aircraft) The Ministry of Transport has roads and railways and shares shipbuilding with the Admiralty The Ministry of Fuel and Power has coal, oil, gas, electricity, that of Works has building and civil engineering, that of Health has housing and water supplies The Ministry of Food has this important topic, that of Agriculture and Fisheries has its own fields, forests, and seas

Control applies also to trade and finance Control of imports is through government bulk purchase or licenses issued by the Board of Trade The imported and other raw materials are carefully allotted to the several industries—steel by a decision of the cabinet, other commodities by the raw materials committee of the cabinet Distribution among the industries is handled mostly by the Board of Trade, partly by the Ministries of Supply and Works Man power is controlled and directed to essential industries The allocation of materials, equipment, and labor controls production, rationing controls consumption

Financial control is exercised by the Treasury through the Bank of England, through the Exchange Control Act of 1947 and the Borrowing Act (control and guarantees), by which a Capital Issues Committee limits the raising of new capital Location of industry is directed by a Distribution of Industry Act (1945) Publicity for all this is by the Economic Information Unit, which works with the economic departments and the Central Office of Information, using posters, publications, films, and lectures to inform the public and both sides of industry After all this, little can happen in the economic world without the direction or at least the knowledge of the planning groups, and there is no doubt that Great Britain has a managed economy [2]

## *PUBLIC CORPORATION*

There has always been a difficulty about operation of an economic enterprise directly by the government The directing personnel are civil servants and may be under political pressure Accordingly, favor is shown to the idea of a public corporation managed by a board representing the chief interests, e g , managers, workers, consumers, and experts, and working as independently as may be under a department Bonds might be sold and interest paid on them, or stock issues made to the public with a fixed return guaranteed by the Treasury, the issue to be redeemable within a period But no profits would accrue to any private person Of this nature is the Port of London Authority under a board representing harbor and shipping interests and workers, local and central governing authorities

The Labour government, taking over important economic activities, likes this public corporation and uses it extensively The minister appoints and dismisses the directors, gives general instructions, controls finance, and re-

[2] *Ibid*, pp 41-58, F Williams, *Socialist Britain* (New York, 1949), pp 85-161

quires satisfactory performance In provincial areas, he creates consultative committees of local interests to watch the industry and give advice, or he may use voluntary societies and help them with grants He will settle differences between the corporation and the local committees If the corporation were subject to questions in Parliament on small items of administration, it would tend to do as little as possible, and under present rules it is subject to discussion only at certain times, e g , when it presents its report or enters the debate on estimates The Speaker nevertheless may allow a question at any time if he thinks it justified

Whether the public corporation can be independent enough for efficiency and dependent enough for control is for experience to answer, as is the economic question whether the saving in overhead from the monopoly will overcome the loss from lack of incentive to keep costs down [8]

## *AGRICULTURE*

From the repeal of the corn laws in 1846 until 1914, farming was a neglected industry The country obtained food from abroad in return for manufactures and ignored the agricultural population Low prices for crops discouraged the tenants and low wages drove the laborers to the towns or overseas, and stock raising tended to take the place of food crops The problem of disease in animals led to the formation of a Board of Agriculture (1889), which acquired the fisheries from the Board of Trade (1903) and grew into a ministry (1919) It established experimental farms and colleges and issued regulations about health and care of animals, and it had an assortment of duties like land drainage, ordnance survey, and the management of Kew Gardens, the botanical center of London

The country imported two-thirds of its requirements in food, and the war of 1914–1918 brought out the danger of this condition Imports were hindered by enemy action, in 1917 to a menacing extent Some favors were thrown at the country people and production was raised, but most of this ceased at the peace The great depression of 1929 and the menace of another war compelled the government to lend a hand to the farming industry from 1931 by means of tariffs, subsidies, and quotas on imports

The second war was even more critical than the first in respect of food supply Land was utilized as never before and yielded two-thirds of the national stock for some years There was a falling off at the armistice but the output remained at a third above prewar levels Imports have been restricted by the need to save shipping space and dollars, and great attention has been given to the problem of food The imports came largely from the very dollar countries which supplied material for the industries, in 1947, 47 percent of the food came from the Western Hemisphere as compared with 27 percent

[8] *Postwar Britain, 1948-49,* pp 35-40

before the war This condition is changing as European countries recover and resume export of food, but Great Britain can never again afford to be so careless with its food farming The Labour government has set itself to work out a long-term policy and to assure prices and a market and has had some cooperation from the farmers

The Ministry of Agriculture works with the aid of sixty-two county agricultural executive committees, one for each administrative county Below these are district committees which link the production of each farmer to the ministry's general plan Production goals are set and quotas assigned to counties, districts, and individuals, each to do what he is told

The county committees succeeded the county war agricultural committees and were established under the Agriculture Act (1947) There are up to twelve members on a committee, five appointed by the Minister of Agriculture and six others, two each from lists submitted by the Central Landowners Association, the National Farmers Union, and the Farm Workers Union respectively The twelfth is a member of the county council, appointed by the minister after consultation with the council He links the committee and the agricultural committee of the council, which attends to agricultural education and small holdings The first five are persons of experience in farming of the local type No member is paid

For the planning, an Agricultural Land Commission was established in December, 1947 This body also manages land acquired by the ministry under the act, it is composed of a chairman and four members of experience in agricultural business or administration They are on a part-time basis, for three years initially, and take general directions from the minister The commission will carry out large schemes beyond the capacity of the farmer

It was apparent to all but the farmers that they needed technical advice and instruction A national Agricultural Advisory Service was set up October 1, 1946, under an act of 1944 to provide instruction free of charge It will eventually employ 1750 officers and cost a million and a half pounds a year This service takes over advisory work from local educational authorities and specialist matters from agricultural colleges and universities The service is organized into eight provinces, each with a director and staff of specialists, in crops, horticulture, animal husbandry, etc The specialists include experts in entomology, plant disease, soil chemistry, animal nutrition, bacteriology, etc Other specialists deal with grassland, milk production, farm buildings and machinery, poultry, hothouse crops, fruit, vegetables, and whatever else can be specialized in

Under the county executive committees are county agricultural officers, under the district committees are district advisory officers who must have practical as well as theoretical knowledge of farming Each looks after about a thousand farmers and growers County and district officers work closely with administrative services for seed inspection, bull licensing, etc, and with

the Agriculture Land Service established under the act of 1947 for the utilization and management of the land

The farmer is assured of prices and a market The Ministry of Food buys the greater part of the output either directly or through agents and resells it through various agencies to consumers The ministry controls the prices paid by consumers in the interest of the cost of living, and may take losses on its transactions It manages agricultural improvement subsidies to some £12,-000,000 a year, including a grant of four pounds an acre on grassland returned to crops, subsidies on sheep and cattle in hilly areas, grants in aid of ditching and draining and water supplies, and grants to restore hill farming and supply fertilizers at low cost For wheat there is a grant of three pounds an acre on the first ten acres put to use by any occupier, for potatoes, four pounds an acre on the first ten acres, besides an ordinary payment of eight pounds an acre

The laborer is not forgotten The fixing of minimum wages is in the hands of a Central Wages Board on which sit farmers, laborers, trade unionists, and independents appointed by the government An act of 1947 enables a qualified agricultural worker to obtain a loan to buy or rent and equip a small holding Committees of councils must provide these if land is available, the man is suitable, and the ministry approves

The general aims of the plan are to grow the crops required by the government, to insure a continuous supply of commodities like milk, to discourage wasteful production, e g , of fat cattle For most products the Minister of Agriculture, the Home Secretary, and the Scottish Secretary fix prices annually on a review of the best data available from economists and farmers' representatives The farmers know prices and market for crops eighteen months ahead and for animals two to four years ahead Payments are by a fixed price, a deficiency allowance, an acreage grant, a subsidy, or some combination of these Special price reviews may be held between the annual reviews to allow for new factors in the situation

The ministry gives further aid to farmers under the Goods and Services scheme County committees maintain pools of labor and machinery for hire and use by farmers

The farmer is an individualist, likes his own methods, and is often unwilling to take part in a general scheme, and he may need the whip Where an occupier or owner is not living up to his responsibilities, the Minister of Agriculture has power to put him under supervision and give him strict orders He is on probation for twelve months and if he does not improve may be dispossessed An owner may lose his land by compulsory purchase, an occupier may suffer termination of his lease, an owner-occupier may be required to rent his land to an approved tenant It is chiefly the county committees who are to administer these powers, a farmer is judged by his peers with some instigation by a bureaucrat Appeals go to the Agricultural Land Tribunal, composed of

a lawyer chairman appointed by the Lord Chancellor, a farmer, and a landowner appointed by the Minister of Agriculture from panels nominated by their respective organizations The tribunal may be assisted by two independent assessors with professional qualifications, and its finding is final and binding on the minister This extreme sanction has been applied in only a few cases Nevertheless it is clear that the farmer has lost some of his liberty and is under a stricter regime than the factory worker A Labour government can afford to be hard on him as it will lose little in votes, the farmer votes Conservative and is bound to be an enemy

There is evidence that farming with its dependence on factors out of human control lives uncomfortably with an order-loving bureaucracy The owner of a dairy farm found the drainage system of his cowsheds out of action and the barns flooded He applied to the Department of Works for drainpipes and labor and in reply had an accusation of putting cattle ahead of human beings when materials were badly needed for dwellings The Department of Health heard of the matter and threatened to prosecute the man for producing milk under unsanitary conditions He stopped selling the milk and fed it to the calves and pigs, and the local agricultural committee arrived to charge him with failure to live up to his contract about milk In this instance a conference of all parties reached an agreement and let him have his drainpipes, but other farmers were not so fortunate Jack Clark, farmer of Rainham, Kent, was found guilty of selling three gallons of milk allotted to the workers on his farm to a confectioner for the manufacture of ice cream Clark stated that the workers often did not want their full ration and left him with a surplus of milk to go sour He asked the food inspector about the problem and learned that he could do anything except sell it He gave it to the dogs at first, later to the confectioner Clark paid ten pounds and two guineas costs and the confectioner identical amounts for his part in the criminal transaction In matters of this sort, some easing of the regulations might serve the purpose, and in general more of the carrot and less of the stick is in order for dealing with the farmer But there remains a fundamental difficulty about a tight organization of an occupation much less regular and predictable than factory operations [4]

## *FORESTS AND FISHERIES*

From 1919 the forests have been recognized as an indispensable national asset, and in that year a Forestry Commission was established to look after them This body had acquired over a million acres of land by 1939 and was busy with conservation and planting By the Forestry Act of 1945, it passed under control of the Minister of Agriculture and Fisheries in England and the Secretary of State for Scotland and gets large aid from the Treasury The total area of land acquired by the end of September, 1947, was 1,440,500 acres,

[4] *Ibid*, pp 158-171, *Labor and Industry in Britain*, September, 1948, pp 135-140

in forest, to be planted or to be used as forest workers' holdings The full-time workers were 10,500 at that time Another 1,500,000 acres were held by private persons and local bodies to make a total of nearly 3,000,000 acres

The postwar program hopes to increase this to 5,000,000 acres of productive woodlands over a period of fifty years This is considered the minimum to insure national safety and security against shortage of world supplies and would require the planting of 3,000,000 acres above that now in forest The annual yield of the 5,000,000 acres would be 35 percent of the national need in timber as compared with 4 percent in 1938 Under an act of 1947, inducements are offered to private owners to work with the scheme An owner promises to devote his woodlands to timber production indefinitely under control of the Forestry Commission and receives a lump sum or planting and maintenance grants for fifteen years He also has the revenue from sale of timber By the end of June, 1948, over 900 private owners with over half a million acres of woodlands were negotiating to enter the plan The commission will have five schools of forestry to train its men and a research station near Farnham, Surrey There are six national forest parks, and more planned

Fisheries are highly important to British diet at all times and particularly during the period of meat rationing At the end of the war, the Admiralty released the fishing vessels in its service and began to clear the mine fields The latter job is not completed, but the catch was equal to the prewar figure in 1948 By two acts of 1944 and 1945, the government gives financial encouragement to fishermen in the herring and inshore industry—loans or grants for boats and equipment The trawler fleet, which does the bulk of the British-caught landings, numbered 1066 at the end of 1947, the drifters and seiners were over a thousand The fisheries departments do marine research on many sorts of fish and their environments The industry remains in private hands and is not likely to change the condition, it has no plan for development other than indefinitely improved production [5]

## *FACTORY LAWS*

The government's welfare program included factory legislation, family allowances, insurance against infirmity of every physical sort, plans for health, housing, and education Beyond the welfare program was one for the armed forces, which needed to be brought up to date

A long series of factory acts for the protection of workers was consolidated into the Factory Act of 1937, revised in 1948 This covers about 250,000 premises with 7,000,000 employees It lays down conditions of cleanliness, temperature, space per worker, ventilation, water supply, lighting, and lockers and requires facilities for washing and first aid and protection against dust and fumes To enforce the acts there were, in 1948, 366 factory inspectors and

[5] *Postwar Britain, 1948-49*, pp 174-175

advisers and 150 quarries and mines inspectors, who are employed by the Minister of Labor and report to him

An act of 1938 enabled wage-fixing bodies to grant seven days' vacation with pay Nearly all manual laborers enjoy this now, some get two weeks The statutory work week is forty-eight hours, the common period is forty-four to forty-five, reached by voluntary agreement Private societies help inspectors in the prevention of accidents In 1947 there were 851 fatal accidents in factories, 618 in mines Some firms provide a doctor, nurse, canteen with hot meals, part or all of the cost of clubs and sports, retirement and illness schemes, and train and educate their employees The minimum age for employment is thirteen, but little of it is allowed until fifteen Shops fall to local authorities, who regulate closing hours and the working day of employees [6]

## *FAMILY ALLOWANCES*

Family allowances are in charge of the Home Secretary under an act of 1945 (before the election) in effect from 1946 Within a year, 2,500,000 families were drawing money for over 4,000,000 children The children, except the first, benefit, the married pair are supposed to produce one child on their own initiative The post-first children get five shillings a week to age fifteen or sixteen, depending on the leaving of school or apprenticeship As a child reaches the age, the next ceases to benefit and the rule is maintained that the children minus one draw the money The allowances are treated as income for purposes of taxation The amount is not intended to cover the full cost of keeping a child, merely to insure that it will not be raised in want The mother draws the money against a voucher in the post office [7]

## *NATIONAL INSURANCE*

The Ministry of National Insurance was set up by act of Parliament in 1944 in the time of the coalition government It has been staffed partly through the civil service, partly from the 5000-odd approved societies which had been doing parts of the work There are to be regional and local offices of the ministry for the management of national insurance and industrial injuries insurance and cooperation with other services where necessary Headquarters in London is to have a staff of 500, a central record office in Newcastle will have a staff of 8500 and there will be 1000 local offices

Under the minister is a national Insurance Advisory Committee of nine members to watch the operation of the system, take representations from anyone, and suggest changes in reports to the minister In 1948 the chairman of the committee and two of its members were scholars, a trade unionist, a shipbuilding employer, a Welsh county councilor, a Scots doctor, the warden

[6] *Ibid*, pp 94-97

[7] *Ibid*, p 107, *Britain's Charter of Social Security*, British Information Services (1948), pp 14-15

of a hall for women students, and a senior official of the approved societies completed the list with an unusual variation of experience Local tribunals will settle questions about the benefits, each will probably consist of an employer, an employee, and a lawyer to represent the government

The National Insurance Act (1946) inaugurated the new and comprehensive system of insurance which had been in view by both parties For it the population from sixteen to sixty-five is divided into three classes employed by others, self-employed, non-employed Everyone makes an inclusive payment a week by a stamp placed on a contribution card to cover all aspects of insurance Employers of persons in the first class contribute also, and the government adds its bit for all three groups The second and third of these, lacking employers, must pay more on their own account than the first The contribution covers wife and children below sixteen, the working age A man of the first class over eighteen pays 4*s* 11*d* a week—about one-twentieth of his income if he earns £5 a week The employer sees that he pays it and adds 4*s* 2*d*, and the government puts down 2*s* 1*d* to make a total of 11*s* 2*d* a week For this money, the first class get unemployment and sickness benefits, retirement pensions, death grants, for the women, maternity aid and widowhood pensions, and help for fatherless and/or motherless children Persons in this class come also under the industrial injuries scheme The second class have the benefits except for unemployment and industrial injuries The third class are not interested in the benefits for unemployment, sickness, and industrial injury but may draw the maternity and widows' aid, retirement pensions, and the death grant

The unemployment benefit touches nearly 20,000,000 workers When a man has paid twenty-six contributions, he may draw standard benefit for a period up to 180 days and, if his record is good, extended benefit for another 130 days, for which he needs the recommendation of the local tribunal The normal rates are 26*s* a week for a man, to which may be added 16*s* a week for a wife or other adult dependent and 7*s* 6*d* for a first child, the others being under care of the family allowances A man cannot draw the money if he has been dismissed for misconduct or refuses a job without good reason

The sickness benefit is available for about 23,000,000 people and their dependents and again requires twenty-six contributions from the individual The rate is 26*s* a week for a single person, payable for a year in the first instance and for the duration of sickness in addition if the contributor has paid for three years The sick person calls a doctor, who gives him a medical certificate if he cannot work The patient sends the certificate to the local insurance office If the claim is allowed, he or a dependent draws the allowance from the insurance office or the post office He needs a fresh certificate each week he is sick

The maternity benefit is of three kinds a grant and either a maternity allowance or an attendance allowance The grant is £4, at or before confine-

ment, and is multiplied by the number of children produced at the birth, twins win twice the grant, triplets three times If the wife is in gainful employment and gets leave from it, she has the maternity allowance of 36*s* a week for thirteen weeks, dating for six weeks from the estimated time of confinement Women who do not go out to work get the attendance allowance of 20*s* a week for four weeks from the confinement

Widows' benefit is of three kinds and requires contributions for three years The payment is 36*s* a week for thirteen weeks after death of the husband and 7*s* 6*d* a week for one child with reservations about persons qualified for retirement pensions After thirteen weeks, a widow with children may receive a widowed mother's allowance of 33*s* 6*d* a week When the last of the children reaches working age, this allowance ceases But if the widow is over forty and ten years have elapsed since the marriage, she gets a widow's pension of 26*s* a week She gets this whether there were children or not if she was over fifty at the time of becoming a widow and ten years had passed since the marriage If through some infirmity a widow is incapable of self-support, she has the pension of 26*s* a week Needless to say, the young widow without children or infirmities is expected to stop mourning at the end of thirteen weeks and present herself at the employment exchange

Retirement pensions have replaced the old-age pensions of previous acts A man over sixty-five or a woman over sixty who has paid duly for three years with a yearly average of fifty payments can draw 26*s* a week if he or she quits work A wife insured on her husband's card gets 16*s* a week in addition to his allowance, the two draw 42*s* a week If he continues to work till age seventy, both get larger amounts, apparently to encourage industry in the old

Death grant is paid on death of the insured or a dependent and may be from £6 for a child under three years of age to £20 for a person over eighteen The motive is not to encourage dying but to insure a funeral appropriate to one's age

Industrial injuries insurance is a new feature The older plans made the employer liable for loss suffered by the worker, against which he commonly took insurance Most claims were paid forthwith, but often employers or insurance companies went to court and by threat of protracted litigation compelled settlements for lump sums instead of pensions In the meantime the workman paid his own medical expenses and altogether was under a grave handicap

The act of 1946 made the insurance fund entirely liable for the compensation to the worker Fourpence a week comes from his contribution and another fourpence from that of the employer After an injury, the worker or his dependent makes a claim at the insurance office The officer in charge helps to fill out the forms and decides the policy about the claim, subject to an appeal to the local tribunal If it appears that the man may be disabled for a

long time, he goes to a medical board for an estimate of the degree of disablement

If the claim is allowed, he draws 45*s* a week as injury benefit up to twenty-six weeks, the wife gets 16*s* a week and the first child 7*s* 6*d* while the man is unable to work If at the end of the twenty-six weeks a partial disability remains, he is paid according to the board's estimate, for less than 20 percent, he may get a gratuity up to £150 If totally disabled the man gets 20*s* a week extra or 65*s* in all If he is prevented from following his own occupation, he gets a hardship allowance of 11*s* 6*d* provided that the total does not exceed 45*s* Persons needing attendance have an allowance for that, if in hospital, they get the full rate of 45*s* while there Whether the system will reduce the care of employers for the safety of their workmen remains to be seen The money is to be had at the insurance office or the post office

Disabled persons are on a special register at the exchange, and a disablement rehabilitation officer tries to find work for them An act of 1944 requires large employers to take a quota of disabled persons for whatever work they can do

## *NATIONAL ASSISTANCE*

The National Assistance Act of 1946 sweeps away the old poor law and relief acts and transfers the financial burden from the local authorities to the exchequer It replaces relief of all sorts by assistance grants A national Assistance Board is in charge and has officers in the localities to judge the need of applicants under regulations approved by Parliament They survey his resources and those of his wife and his children if these are at work If he owns his home, he is not expected to sell or mortgage it, if he has £75 in ordinary capital or £375 in war savings, he may keep them But if he has £400 over and above these resources, he will get no assistance The authorities disregard the first 20*s* of disability pension and 10*s* 6*d* of superannuation in their reckoning The recipient is free of legal disabilities and may be a candidate for local office or Parliament

The Assistance Board has extensive plans for further help to the needy of several sorts It is intended to set up reestablishment centers to train people in the crafts of their liking and reception centers to board, lodge, and teach drifters The local authorities are to provide residential homes for the aged and infirm and envision hot water in the rooms, a laundry service, and attendance for the helpless They are to put up temporary shelters for others in need They may charge those who can pay and will draw on the national Assistance Board for the others There are to be special facilities for the blind, the deaf, the dumb, the crippled, there will be such work as they can do, and help in selling the products Voluntary homes already in existence for this work must register as the hospitals do Undoubtedly many years will pass before the plans can be executed in entirety

We have statistics for the first year's operations of the welfare program, ending July 5, 1949 About 140,000 claims are made each week for sickness benefit, 800,000 maternity benefits were claimed for the year A total of 4,150,000 men and women over sixty are receiving retirement or old-age pensions, for which claims are coming at a rate of about 8000 weekly About 460,000 widows under sixty get widowhood benefit and 2000 more are claiming it each week Over and above these, guardian allowance or orphan pensions are being paid to about 10,000 children Three-quarters of a million claims have been made under the industrial injuries section and were referred to 103 medical centers from which appeal could be made to thirteen medical tribunals The number of families receiving family allowances and the number of children getting allowances was 2,900,000 and 4,600,000 at the end of the year, about 19,000 new claims and adjustments were made weekly Twenty-four million persons were contributing through 987 local insurance offices, which dealt with 10,000,000 claims and 40,000,000 payments during the year [8]

## *HEALTH SERVICE*

In 1939 nearly half the population had free medical service under the act of 1912 and many had additional benefits from local authorities or private societies There still were gaps on the one hand and duplications on the other, an imperfect geographical distribution of medical personnel and equipment Above all, there was no central plan for prevention and treatment of disease In 1940 the chief medical organizations set up a Medical Planning Commission which reported in favor of some such plan Sir William Beveridge recommended it, the coalition government accepted it in 1944, and the Labour government passed the National Health Service Act of 1946 and another for Scotland the next year The act extended free medical service and medicine to all, rich and poor on equal terms There were 21,000 general practitioners, who were thought capable of handling the work The act included dental service but, as there were not nearly enough dentists (10,000), left this sketchy and gave mothers, babies, and school children priority for what facilities existed

The scheme is managed by the Ministry of Health and its staff The minister is advised by a Central Health Services Council, professional men of high repute appointed after consultation with the organizations The president or chairman of each of six principal medical bodies is ex officio a member the Royal College of Physicians in London, the Royal College of Surgeons of England, the Royal College of Obstetricians and Gynecologists, the British Medical Association, the General Medical Council, the council of the Society of Medical Officers of Health They give advice and the Central Council makes an annual report Finance is from the exchequer, rates, and a contribu-

[8] *Postwar Britain, 1948-49,* pp 102-110, *Britain's Charter of Social Security,* pp 4-10, 16-18

tion by the National Insurance Fund which comes to a shilling a week for the average workman Five-sixths of the expense is from taxes and rates

Local services are in charge of local authorities (the county and county borough councils) and include care of expectant and nursing mothers and of young children, dental attention for these groups, home midwifery, home nursing, health visiting, domestic help where required for reasons of health, vaccination, immunization, provision of ambulances The local authorities are to provide, equip, and maintain health centers for the use of doctors, dentists, patients, and instructors in public health These health centers will be clinics where patients will get diagnosis and treatment short of hospitalization and recommendation for that when needed, and where they will apply for the various services listed

In each local health area there will be a local executive council to make contracts with doctors, dentists, and pharmacists in the scheme and to link their services with those provided by the local health authority Each council has a chairman and twenty-four other members—eight appointed by the local health authority, four by the Minister of Health, seven by the local medical committee, three by the dental committee, and two by the pharmacy committee

Each patient chooses a doctor from a list drawn up by the local executive council and to be seen at libraries and post offices He may change doctors, the doctor may refuse to accept a particular patient or to treat him further if he is registered with him The patient has a medical card and if taken ill away from home may present it to any doctor in the scheme and get treatment In all cases the government pays the fee, which is an annual amount per patient, no matter how many visits there have been Ninety-five percent of the people have registered for the service, the others may go to what doctor they like and pay as before but they pay for drugs, appliances, etc, which come free to registered patients A patient may pay for specialist treatment not provided in the plan An expectant mother has the services of doctor and midwife, and if her own doctor does not do maternity work, she may get a recommendation from him to one who does The doctor may refer the patient to a specialist, e g , for eye and ear treatment and for spectacles and hearing aids which will be provided free by the government The apparent beneficence extends even to wigs, not hitherto considered a necessary of life

No doctor is forced to join the plan, and if he comes in, he may do so on a part-time basis, taking fee-paying patients on the side He may have partners and group practice as he wishes All doctors are able to join in the area where they have been working, but a doctor wishing to move to another area or to join the plan after its inception will need the permission of a Medical Practices Council, who will decide whether the area of his choice has too many doctors already The working of this provision is to be reviewed after two years for possible modification Entrants to the profession do not buy

practices any more, those in it who have laid out money for the purpose are to be compensated from a fund set up therefor On entering practice, a doctor must take a basic salary of £300 a year and a low capitation fee for three years, then may continue on the basis or drop the salary and take higher fees These three aspects of the plan—choice of location, sale of practice, remuneration—caused much difficulty between profession and ministry but the question was settled eventually

Of the country's 21,000 general practitioners, 20,000-odd (93 percent) accepted the plan The doctor receives sixteen shillings a year for every patient treated in that year, irrespective of the number of treatments or consultations The present assumption is that a doctor will have 4000 patients, although 7000 or 8000 have been known His gross income accordingly is £3200 Out of this come his expenses, perhaps a third of the total, to leave him slightly over £2000 a year To some doctors this is an increase, to most, a decrease The work has increased a great deal As many as sixty patients may be waiting at the office for consultation of a morning in place of twelve to twenty, some have come merely to get a note to the druggist for aspirin or cotton wool, which are free with the doctor's signature When the doctor goes the round of the homes, whole families want to be examined and will detain him for thirty minutes in place of the old ten He must work in birth and emergency calls somehow There is a good deal of paper work reports to the ministry and to the local committees, certificates for absence from work by reason of illness, for free milk, for exemption from jury service Much of this falls to his wife, who is busy without pay Doctors in general have more to do and no corresponding increase in pay, which violates every principle of trade unionism It may be noted that the freedom to stay off the list is more apparent than real, the doctor who will not join has no access to the hospitals, which is professional death to all but a very few.

Specialists number 15,000 and are on timework A surgeon is paid by a session of surgery, e g , two hours at it, and not by the kind of operation He may do as many sessions as he can a week at a hospital and gets £200 per year per session, and he may do private practice on the side Nearly all have accepted the plan and do the private work also No one ranks as a specialist under the plan unless he has a hospital appointment, and very few can do without it

The dental service is giving even more difficulty, as there are only 10,000 dentists in the country Under the plan, they are on piecework Patients do not register, they walk in and ask for an appointment, which may be months off The government began by paying ten shillings for an examination or extraction, a pound for a cavity Millions of Britons promptly rushed to the dental offices for all sorts of work and overwhelmed the occupants The dentists did their best and soon were earning fabulous amounts, simply from the pressure of customers A survey showed 333 dentists earning over £8400

a year and another 1066 getting over £6000 a year, whereas the scheme had contemplated an average net income of £1778 The ministry considers present earnings too much and has reduced fees and halved gross payments above £4800 a year, it gives the dentists excessive work and pays them less, which would cause a strike in any factory The dentists feel cheated and indeed the whole scheme is premature Nevertheless, the rush to the offices indicates the need of the population and the soundness of the principle of the service

The best-pleased members of the healing professions are the 14,000 druggists, or chemists as they are called, who keep to the business and do not operate miniature department stores as in America They have won a point in contention between them and the doctors, 75 percent of whom used to fill their own prescriptions, the chemists now have a practical monopoly of the field as any doctor who fills a prescription pays for it himself Prescriptions have risen from about 80,000,000 a year to nearly 175,000,000 and are making the chemists rich Earnings have doubled, the net income before taxes has risen from £750 to £1500 This they like, but fear to be put on salary and do not know what to think of the plan

The opticians are in like case They used to sell 4,500,000 pairs of glasses a year, now sell 8,000,000 The patient visits his doctor and is sent to the optician for an eye test The optician, if there is need, applies to the regional committee for permission to make the glasses and generally makes them in anticipation of sanction, which takes from one to three months He can give ten colors or shapes of frames and nine more if the customer will contribute a little, and he gets £1 11*s* 6*d* a pair from the government Ninety percent of the applicants need the glasses, 30 percent get two pairs

All members of the professions fear salary, which hangs like the sword of Damocles over their heads but will not descend without the sanction of Parliament There is freedom to criticize the scheme or any part of it and a group of doctors has organized to oppose it No doubt there will be changes but hardly in the principle of the plan The great difficulty is the shortage of doctors There were 11,500 medical students in July, 1948, 27 percent of whom were women, but these are not enough Only if medical students had fees paid and an allowance to cover their living expenses could the requisite number be obtained, and no doubt the change will come in time

Hospitals, midwives, and nurses were included in the plan In 1941, a commission appointed by the Minister of Health and by the Nuffield Provincial Hospitals Trust surveyed hospital services in Great Britain They found municipal hospitals, voluntary hospitals depending on private endowments and contributions, and hospitals operated by associations like trade unions and religious orders There were special services, municipal and voluntary, for tuberculosis, venereal disease, maternity and child welfare, mental hygiene, etc But there was a great shortage of hospitals, beds, and

consultants for a population approaching 50,000,000 Only in a few areas was private practice remunerative enough to support specialists If these took appointments on the staffs of a number of small hospitals, they wasted time in traveling The shortages extended to nurses and workers in the institutions There was not enough of anything and the existing amount was badly placed

The National Health Service Act of 1946 had a section on the hospitals intended to alleviate the tension The Minister of Health had power to take over all institutions of this nature and organize them in whatever way promised to furnish better service He took over 2751 hospitals, of which 1647 were municipal, 1104 voluntary He might buy a private institution if he wished and he might disclaim any which he did not need By April 1, 1948, he had disclaimed 179 such places These provisions applied to maternity homes, sanatoriums, mental hospitals, and rehabilitation and convalescent homes For the specialists there was good news of increased scales of remuneration and allowance for travel and equipment

For hospital purposes, the country was divided into fourteen regions, each with a board unpaid and appointed by the Minister of Health after consultation with the various local groups interested Each region is drawn to include or be associated with a university medical school The boards appoint local management committees, one for a large hospital or a group of small hospitals, again after consultation with local authorities and executive councils There is provision for medical research, blood transfusion, and bacteriological service under close supervision by the Minister of Health A special problem was presented by the teaching hospitals in association with medical schools, supported by endowments The minister acquired the buildings and contents and left the management in the hands of boards of governors, whom he appointed from the university faculties, teaching staffs, regional boards, etc These manage the endowment and arrange the teaching

The hospitals are free of charge to everyone, including all forms of specialist service necessary, nurses, drugs, etc The patient may pay a fee for nonessential equipment or a private room if one is available This is rarely the case, as the accommodation is not nearly enough for the demand and priority is on the basis of need, not wealth Independent hospitals may set aside rooms for private patients and charge them, and may also take patients under the National Health scheme, for whom the government pays at a fixed rate They may still seek financial help from the public

The regional boards and management committees are responsible for services to persons suffering from mental illness The local health authorities discover and treat light cases, the boards and committees provide institutions for the proved mentally defective At the end of 1946 there were over 100,000 such patients in England and Wales under care in institutions There are special hospitals, clinics, and sanatoriums for T B and V D

In Scotland, the National Health Service took over a locally famous scheme (Highlands and Islands) instituted in 1913 to help areas sparsely populated and difficult of access This covered seven shires, it had a central fund to pay doctors to attend insured persons at low fees and uninsured persons who could not pay The doctors had holidays and opportunities for further study The fund made grants to nursing associations and hospitals, helped a dental service in Skye and the outer isles, a special tuberculosis service in three islands, and an air-ambulance service All these are now part of the national scheme

Medical research is under control of the Medical Research Council, twelve eminent professional men whose appointment is approved by the Lord President of the Privy Council and the president of the Royal Society The council has funds from Parliament and private bodies, has its own research institutes, and helps other research units and individuals It coordinates the research in universities, hospitals, and laboratories and publishes special and annual reports

The cost of the health scheme in 1948-1949 was estimated to be £150,000,000, but the amount has been much exceeded The cost for the first nine months was over £228,000,000, a rate about double the estimate Whether the scheme is to be narrowed depends on national finance, but it is likely to persist in essentials [9]

Maternity and child welfare fall largely to the local authorities under recent legislation They and the voluntary organizations set up welfare centers for mothers to obtain free care and advice before and after confinement and for babies to be weighed, examined, inoculated Many centers stock infant foods, fruit juices, cod-liver oil, etc, at reduced prices or gratis according to the need of the recipient Three out of four mothers with children under one year old are using these centers Maternity care is provided in homes, hospitals, or the houses of the patients For the last service, midwives are in demand, and attend about two-thirds of the births in Great Britain without benefit of a doctor They come under training and regulation by a division of the Ministry of Health The midwife visits and advises the patient before confinement, does the delivery and calls the doctor if necessary, and attends for fourteen days after the birth Nurses from the welfare centers go to the homes and furnish care and advice until the child is five years old Immunization is done at the centers, free if there is need, and has practically eliminated diphtheria as a cause of death The program has already raised the birth rate and greatly lowered the rate of child mortality In 1946 there were about 560 training schools approved by the general nursing councils, 47,500 trained

[9] *Britain's Charter of Social Security*, pp 10-14, *Health Services in Britain*, British Information Services (1948), articles in the Buffalo *Evening News* by William McGaffin, March, 1949

nurses and midwives working in hospitals, and 80,000 students, assistants, etc, but not nearly enough of any group

Children with unsuitable parents, or none living, numbered about 142,000 in 1946 Many homes existed for them—886 registered in England and Wales, chiefly in the names of voluntary societies, some were good, some bad After a view of them, the Children Act of 1948 was passed to set standards and require registration of all institutions that shelter children The supervision is by county and county borough councils under direction of the Home Secretary, who has a children's division The local authority sets up a committee and appoints a children's officer, to board the children in foster homes or place them in homes provided by the local authority or a society Such a place must register with the Home Secretary or incur prosecution Two advisory councils, one for England and Wales, one for Scotland, watch the operation of the system for the Home Secretary Adoption agencies are registered similarly and are supervised by county and county borough councils

Parallel care is extended to the children of working mothers by the Nurseries and Child Minders Act This enables local authorities to register and supervise nurseries and homes where children are left while mothers are at work, a practice encouraged by government during the current shortage of labor [10]

## *HOUSING*

The Ministry of Health has a duty in respect of housing, a national issue since 1918 Under various housing acts from 1919 to 1939 1,500,000 houses were built for rent with the aid of subsidies At the same time, private enterprise erected 2,500,000 houses, mainly for sale During the second war, building stopped, and about a third of the 13,000,000 houses were injured by enemy action Those destroyed or rendered uninhabitable numbered 460,000, the others—4,000,000—were capable of repair without much difficulty Two million houses were needed to restore the prewar standards and many more to meet postwar needs In 1946 a rent control act placed rents under regulation by local tribunals In 1947 a plan was announced to provide four houses for rent to one for sale, renting being the great need The common house was to have 900-950 square feet of floor space, two large bedrooms and one small on the top floor, two rooms, a kitchen, and bath on the ground floor, and a toilet on each, but some variation was allowed

The Ministry of Health and the Scottish Department of Health drew up the program, the Board of Trade, the Ministries of Works and Supply provided the materials, the Ministry of Labor furnished that The local authorities (councils of counties, county boroughs, districts, and metropolitan boroughs) carry out the work They do not do the building themselves as

[10] *Britain's Charter of Social Security*, pp 15-16, *Postwar Britain, 1948-49*, pp 110-113

a rule but place contracts with private firms They have power to take over buildings which are empty or insufficiently occupied and convert them into flats Private building is allowed under license from the ministry, the type and price are set and somewhat larger buildings are allowed than the council houses But few licenses have been issued, the need for council housing being so great Those few are issued to prospective owners, not to builders, to prevent speculation and profit The allocation of the council houses is in the hands of local authorities and nonprofit societies, who keep lists of applicants and assign units on the basis of need

The government makes annual grants for sixty-six years on approved houses built for local authorities, who contribute from rates The placing of the buildings is in the care of the Ministry of Town and Country Planning At the end of June, 1948, over 300,000 permanent new houses had been built, about 150,000 temporary ones, 230,000 odd had been repaired or converted, 31,000 had been requisitioned, and about 3500 huts were in use The common rent of a council house is *22s 6d* a week, purchase requires a down payment and annual installments for twenty-five years A Conservative objection is that private builders can build houses more quickly and cheaply than the councils If controls were off, however, the private builders would build for the well-to-do and leave the poor man to shift for himself [11]

## *EDUCATION*

England has had institutions for secondary education for many centuries, mostly grammar schools founded by individuals or corporations beginning with Bishop William of Wykeham's school at Winchester in 1382 Some of these are known as "public" schools, being open to boys from any part of England—like Eton, founded by Henry VI in 1440 Elementary education was commonly had from tutors or preparatory schools Some of the wealthy families engage tutors for their children and pay the prevailing rate of teachers' salary The tutor has pleasant surroundings, short hours, and may acompany the family on their journeys with expenses paid He has no definite future, moves from job to job and saves what he can Tutoring accordingly is often a period of experiment before entrance into an established profession

The preparatory or "prep" schools are boarding institutions for children of eight to thirteen whose parents are able and willing to pay, they separate the elite from the common herd at an early stage, as one Laborite remarks pungently [12] In the period between the wars, there were about 10,000 preparatory and public schools with 400,000 pupils Some of the "prep" schools were good, most were inefficient, with poor accommodation, sanitation, equipment,

[11] *Postwar Britain, 1948-49*, pp 128-135, National Union of Conservative and Unionist Associations, *69th Annual Conference*, verbatim report of the proceedings (London, 1948), pp 79-82

[12] H R G Greaves, *The British Constitution* (New York, 1938), pp 238-239

and teaching, 15 percent were a danger to staff and pupils On the whole, they fell behind the council schools in standards of all sorts

Boys commonly enter the "public" schools at thirteen or fourteen and stay until eighteen or nineteen, at which age they proceed to Oxford and Cambridge if they want university work For generations, girls had fewer opportunities—a small number of schools to teach social accomplishments and little of intellectual value until mid-nineteenth century The many intellectual women of the intervening centuries studied for themselves

Schooling for the masses looked after itself A few philanthropic persons and corporations founded elementary schools, many persons operated "day schools" for a living, often in their parlors The churches created schools in the eighteenth and nineteenth centuries and from 1833 had grants from the state on conditions like inspection and maintenance of standards In these conditions, town boys had better opportunities than country boys In mid-nineteenth century, only half the population was literate England, falling behind other countries, became aware of the need of education for the new industrial classes The first Gladstone government passed the Education Act of 1870, the foundation of the present system It retained the church schools, gave them financial support, and let them keep up the buildings, appoint teachers, and manage religious instruction, and it established municipal schools only in areas not served by the church schools The new schools were under locally elected school boards and before long were dispensing free and compulsory education An unfortunate but perfectly foreseeable consequence is an interminable argument over the claims of the churches to public funds at every development of education The church-state question is perpetually before the public

The theory of education in 1870 was of a minimum to enable working people to read, write, and count, and it encouraged children who reached the standard earlier than others to leave school, providing a dead stop to scholastic ability Better views won their way, and in 1899 a Board of Education was created under a president with the rank of a minister In 1902 the school boards were abolished and their duties given to local educational authorities, commonly known as L E A 's These were the county borough councils and county councils, save that noncounty boroughs and urban districts might have their own elementary schools or give the work to the county After 1888 the councils had power to establish secondary and technical schools, which some of them used The L E A 's had charge of these elementary and secondary schools, called council or provided schools, and also of the church schools, called voluntary or non-provided, saving the rights reserved in 1870 Some of these were on the secondary level The system expanded, in 1938 it contained about 22,000 elementary schools for 5,500,000 children and 1400 grant-aided secondary schools for half a million pupils, of course treating the sexes impartially Fees at the secondary schools

were twelve to fifteen pounds a year In 1900 not one child in seventy could hope for a secondary school education, in 1938 one in seven had the chance But among the other six were many who would benefit by the instruction and who would repay the public by their work as educated adults Buildings might be in a bad way also, especially if used since 1870, and particularly in the case of voluntary schools, whose resources were commonly limited An act of 1936 enabled the L E A 's to pay from 50 to 75 percent of the cost of new voluntary school buildings for children over eleven years The managers of these schools arranged the religious instruction, the L E A 's controlled other teaching There were only thirty-seven of these "special agreement" schools in 1939 We may add that for children generally of age fifteen or sixteen there was a school certificate, commonly regarded as a sign of leaving school, and for those who continued till they were seventeen or eighteen, a higher school certificate, obtained by passing an examination set by university boards This document qualified the holder for entrance to a university or to the apprentice period of some profession

The need of adjustment was apparent to the wartime coalition and brought about the Education Act of 1944 After that time, a Minister of Education replaced the old board He has a department, sits in Parliament, has a parliamentary secretary also in Parliament and a staff of permanent civil servants who are administrative officers and inspectors The inspectors visit the schools, suggest changes, make reports, and inspire handbooks and pamphlets on the many phases of education The minister has the help of two advisory councils, one for England and one for Wales

Under the terms of the act there were in 1948 146 L E A 's in England and Wales sixty-two county councils, eighty-three county boroughs, and one joint board over a county and a borough Some counties have delegated primary and secondary education to "divisions" with divisional executives over each, and may make such a division out of a populous noncounty borough or urban district, as before the act Each council has an education committee, most of its members are councilors and a minority are other persons interested in the topic The committee get no pay but have a paid staff, and they plan their education in three stages—primary, secondary, and further, the last being a vague and unfortunate term They get grants from the minister on the basis of need and have more than half their expenses in this way

The L E A 's are to provide for all three stages of education and are to give free full-time schooling for ages five to fifteen, free part-time schooling from fifteen to eighteen They may provide free books and equipment also They are to draw up plans and submit them to the minister, who makes a local education order to put them into effect Much of this work is still on paper but something has been done

Under the elementary heading come nursery schools, infant schools, junior schools Nursery schools for two- to five-year-olds are to be provided

but not to be compulsory for the children of these ages [18] Infant schools for ages five to seven and junior schools for seven to eleven are compulsory All may be in the same buildings, though separation is desirable The voluntary schools are under three headings The *special agreement schools* are those which made proposals to their L E A 's under the act of 1936 and may now carry these out, if they have not already done so In a *controlled school*, the L E A assumes all financial obligations and appoints and dismisses the teachers but leaves the managers a voice in the appointment of the headmaster or mistress and one-fifth of the staff, who give the denominational instruction In an *aided school*, the managers meet half the cost of alterations and improvements and get a grant for the rest directly from the ministry The managers keep power over the teachers and give religious instruction of their own sort on public help

In respect of secondary education, the L E A 's are to provide *grammar schools*, academic and cultural in their courses, to prepare pupils for the universities and professions, *modern schools* (an unfortunate term) to provide an all-around training, cultural and vocational, for pupils unable to proceed to universities, and *technical schools* to fit boys and girls for entrance into industry and commerce The three sorts may be in the same or separate buildings Voluntary secondary schools are to get aid as do those in the elementary category but are expected to help the general program They must reserve 25 percent of their places to non-fee-paying pupils from the primary schools, to be selected and paid for by the governors or the L E A , and up to another 25 percent for the L E A to fill at its discretion In 1946, 164 grammar schools were on this list The L E A 's are to provide special instruction for handicapped children, preferably in special schools, and will send visiting teachers to children unable to leave home They are to provide boarding facilities where needed, in houses attached to their own schools or in the independent schools One school of the boarding type is in existence, others will follow, as they are preferred by English custom The Englishman abroad often thinks any kind of private school better than any state school Perhaps the need is not for places in the "public" schools for council school children so much as for places in the council schools for the "public school" type The L E A 's may furnish camps and instruction in them as they see fit

The private or independent schools have a place in the system too, both "prep" and "public " Some are experimental, to teach a hobby of the promoters, many are proprietary, to make a living for the owners, the others are the famous "public" schools All these schools may accept public money and control or remain independent but must register with the ministry, submit to inspection, and meet standards

[18] In 1947 the L E A 's had 353 nursery schools with 18,173 pupils Under other management were 17 schools, 875 pupils

Further education must be provided up to age eighteen, at least part time The favorite means to this end is to be county colleges, to be attended a day or half a day twice a week for forty-four weeks in the year, or eight continuous weeks or some such period There are to be courses for culture, employment, hobbies, recreation, physical education By an expansion of vocational education in these and other schools, it is hoped to let anyone fit himself for a job without resort to evening classes, so hard to take after a day's work Eleven residential colleges and centers of adult education were in operation in 1948

The L E A 's may help voluntary societies for adolescents by furnishing buildings and grounds, equipment, leaders, instructors, and organizers, e g , to boy scouts, girl guides, Y M C A , youth hostels Of the last there were 360 in 1948 which encouraged travel by youth They charged only *1s 6d* a night above the small annual fee of the hostel association

The schools have their part in the plans for public health From 1907, medical inspection was provided under regulation by a medical department of the Board of Education The school medical officer was usually the medical officer of health and had assistant doctors Nursing service and school clinics followed, and treatment was free in elementary schools if the parents could not pay and also in other schools at the option of the L E A This body might also provide meals under an act of 1906 and often did, with financial help from the government

Under the act of 1944, the L E A was to give free medical and dental inspection and treatment in all schools, but under the new National Health Service it will provide inspection only and send children and parents to the doctor for free treatment like everyone else It must provide a midday meal for any pupil who wants it, the arrangements being made by an organizer of school meals and dieticians The meal is free to necessitous children, paid for by the ministry, and available at cost (*5d* ) to others The hope is to make all meals free as part of the plan for family allowances Since August, 1946, free milk has been furnished to all children under eighteen in all schools, including the independent ones, the allowance is a third of an imperial pint a day or about half an American pint The L E A may also furnish free clothing, boots, and shoes to necessitous children

The plan requires a great increase in the number of teachers Until 1945 there were two main types of training institutions Training colleges were maintained by voluntary bodies or L E A 's and gave a two- or three-year course in academic work and professional instruction, and the universities had training schools or departments, giving a year of professional training to students with degrees These institutions continue their work, and the ministry has an emergency training scheme for candidates with some record of war service New teachers must have certificates from the ministry, all

teachers are paid on a national scale but by the L E A 's The scale is recommended by the Burnham Committee and is called by its name, Burnham Scale There are pensions, the cost to be shared by teachers and L E A 's

For many years, Oxford and Cambridge were the only universities, but in the nineteenth century others came into existence The first was Durham (1832), the last is Nottingham (1948) Now there are twelve degree-giving universities in England and Wales, four in Scotland and one in Northern Ireland, and five university colleges whose students take the external degrees of the University of London, the total of students in 1947 being 77,000 They have their money from endowments, fees, and government grants The University Grants Committee gave them over £12,000,000 in 1947–1948 and let them spend it as they pleased to safeguard the principle of academic independence We may imagine, however, that if there were a gross abuse the grant would cease The ministry provides 800 scholarship awards a year to the universities for whatever work the recipients prefer, and 100 for technical students to do advanced work in their fields at the universities Many L E A 's provide scholarships also for their own students and get some help from the ministry in this praiseworthy endeavor Candidates for universities who agree to teach will receive special allowances, and the way of the teacher is as easy as possible

Religion is still a troublesome subject The voluntary schools have always provided it in their peculiar brands and excused any pupil whose parents disliked it Before 1944 the L E A might provide nondenominational instruction in elementary schools at either end of the school day, again excusing the unwilling ones at the request of parents Under the act of 1944, the school day must begin by an act of worship and must include religious instruction according to an agreed syllabus constructed by the Protestant bodies, the objectors being allowed to abstain For a minority of size, the L E A may provide instruction out of the buildings but at their cost This plan suits the principal religious groups and was adopted for that reason but leaves a good many taxpayers and ratepayers paying money for support of religions which they dislike and even of religions which teach that the said taxpayers and ratepayers are entirely wrong in their view of religion and their destination in the next world In brief, a man pays to be denounced, and this is certain to cause irritation

There are many difficulties ahead for the plan of 1944 Buildings are lacking, and prefabricated huts are in common use, equipment and teachers are in short supply, but these are only temporary matters By and large, there is little to choose between the learning dispensed by the academic council schools and that of the old "public" schools Possibly the latter give rather more polish and encourage accomplishments out of the curriculum Attendance at them is a social distinction and a help in obtaining many kinds of desirable employment Accordingly, the council school group suffers from

an inferiority complex and suspects discrimination against itself The remedy of course is not any penal measure against the "public" schools but the improvement of the council schools, and this trouble is likely to be temporary also The existence of three sets of schools side by side—the council schools, the voluntary schools, and the independents—causes no difficulty while all three together cannot supply the demand, but in time it will give rise to duplication and waste and will lead to another reorganization At any rate, the plan of 1944 ought to raise the level of education considerably and be a benefit to the country [14]

## *THE ARMED FORCES*

Prior to 1914, the armed forces were the embodiment of class distinction, visible, outward, and emphasized instead of merely latent The officers of the army came from the wealthy classes and usually from representatives thereof not likely to do well at the bar, in the church, or on the land Until they reached the rank of colonel, they spent more money than they received—on uniforms, messes, recreation, first-class travel on railways Each had a personal servant or batman from the rank and file who did nothing but attend to his comfort He might resign his commission at any time, he had a right to the word "sir," to the stand at attention and the salute whenever he met one of the other ranks, and of course wore different uniforms and slept and ate in different barracks and messes

The "other ranks," N C O 's and men, were the poor, uneducated, resourceless, and unambitious members of the lower classes who drifted into the occupation for the security it afforded between wars Discipline was rigid and impressed his inferiority on the inferior, even the N C O 's might not consort socially with the men and had their own grades An "other rank" might not resign, he enlisted usually for six years and might buy himself out if he could find the money The men had patriotism enough to do their duty in a war but showed no high initiative, the officers had little imagination or adaptability, the exceptions being few and commonly Scots or Irish, who took their brains into service The system produced painful muddles, especially in the first great war Several sorts of militia forces existed, most were combined into the territorial force, organized like the army in the period before 1914 and officered by the gentry A few middle-class men had commissions in the force in the counties, almost none in the towns, and the middle class was without military experience Its members who enlisted in the ranks 1914–1918 were annoyed at the discipline and the social distinctions but forgot the irritation when they quit the army

In the period between the wars something was done to get better officers A commission was to be had from the Royal Military College for infantry and cavalry at Sandhurst or the Royal Military Academy for artillery, engineers,

[14] *Postwar Britain, 1948-49*, pp 116-128, *Education in Britain*, British Information Services (1948)

signals at Woolwich, or from a university after a degree and three years' residence, or even from the rank and file Seventy percent of the commissions went to the school graduates, 15 percent to university men, 15 to the rank and file The candidates for Sandhurst and Woolwich came as before from the less bright members of the senior classes of the public schools, with a few exceptions interested in the service for its own sake They were aged eighteen or nineteen, passed an examination and an interview While in training for eighteen months they paid about £300 a year or more, one in four was the son of an officer and had reduced fees at £180 The 15 percent from the universities were generally good material The 15 percent from the rank and file were N C O 's recommended by the commanding officer, approved by the War Office, and trained free of charge Some lads of good social grade took this way of getting commissions cheaply and blurred class lines Expenses were reduced to permit most officers to live on the pay, and the improvement was visible during the second war, which was much better managed than the first

In the navy in the year 1936, 97 percent of the officers came from the upper classes by way of the training college at Dartmouth or directly from the public schools, 3 percent from the lower deck Two-thirds of the 97 percent were Dartmouth men, one-third schoolboys The cadet entered Dartmouth at about thirteen and a half and at the instigation of his parent rather than volition Unlike his army colleague, he did not tend to come from groups with low intelligence rating and might easily be a bright boy He spent four years in the course and at least £200 a year, again with a reduction if he was the son of an officer Public school candidates entered at seventeen or eighteen, after an examination and interview, and had eight months' training The pay of the fledgling officer did not cover expenses for two years and needed a supplement of about £180, after that it generally sufficed The 3 percent from the lower deck had training free of charge, but none went higher than captain In short, the commissions in both army and navy were for the wealthy group up to 85 percent in the army, 97 percent in the navy (statistics of 1936) The marines had a similar system and 2 8 percent of commissions from the ranks The navy had a militia, the Royal Naval Volunteer Reserve The air force had a college at Cranwell and gave permanent commissions on much the same basis as the army but had free places up to 20 percent Short-service commissions were easily to be had by anyone with the interest, and flying was to be learned at many schools, universities, clubs In 1940 the air force best represented the nation, it had a line between flying personnel and mechanics rather than between classes, although the mechanics were lower class [15]

The Labour government has changed the system to permit boys of all sorts to enter the services From September, 1948, on, the age of entry to Dartmouth is to be sixteen, with special entries at eighteen Candidates have

[15] H R G Greaves, *op cit*, pp 200-207

examinations near their schools and pass interviews, they have free tuition and maintenance Parents provide the uniform and personal expenses if they can afford to do so In these conditions the number of applicants has greatly increased and is from all groups of the population Twenty-five percent of the commissions will eventually go to men from the ranks The army has a similar arrangement Cadets enter the Royal Military Academy, Sandhurst, at normal age sixteen and get free tuition and maintenance, after basic training, they proceed to special schools The officer of the future may be a butcher's son, will have free training, and will live on his pay, he may be less of a "gentleman" and can show whether he is a better officer The irritating distinctions between commissioned and noncommissioned ranks persist, but must sometime give way before advancing equality of education

Staff officers learn the elements of their work at Greenwich (navy), Camberley (army), Andover (air) and proceed to a new Joint Services Staff College at Chesham to learn the interservice aspects of staff duty This college has about a hundred students from the services, the civil service, and the empire The Imperial Defense College caters to a few senior officers also from the armed and civil services and the empire and hopes to give them an overall view of their work [16]

The strength of the navy in 1948 was about 145,000 including 33,000 officers and men in training Only a few are draftees and the hope is to eliminate them entirely Between a quarter and a third of the personnel is employed in naval aviation The operational, training, and experimental units were as follows four battleships, three fleet carriers, six light carriers, seventeen cruisers, thirty-four submarines, fifty-two destroyers, forty-three frigates, and fourteen minesweepers Under construction were two fleet carriers, ten light carriers, three cruisers, ten destroyers, two frigates A large number of units of all sorts remain in reserve with the aid of a dehydration process, some of these are scrapped from time to time The stress is on destroyers and frigates, the new destroyers having armament comparable to that of prewar light cruisers Except for battleships, the navy has prewar strength The theory is that air warfare will preclude fleet actions by lines of ships as in the past and will permit nothing more than assistance to army and air force by balanced task forces on the surface of the sea The volunteer organizations are again active, the Royal Naval Volunteer Reserve is re-formed in twelve divisions with a wireless reserve and four air squadrons

Of the annual appropriation, £9,000,000 is spent on research, chiefly in three main lines reduction of the harmful effects of atomic missiles, increase of the ability of submarines to go and stay deep, and the use of gas-turbine power for propulsion of warships [17] Information on progress is not given

The army numbered 465,800 in mid-1948 Like old Gaul, it is in three

[16] *Postwar Britain, 1948-49*, pp 23-24

[17] *Ibid*, pp 25-26

parts the regular force, to be 200,000 in March, 1949, the draft national service force, and the territorials The last force was reconstituted in 1947 of volunteers and from 1950 will take in the national service men for a term as reservists after their time with the colors The harmony of this mixture must await the event The territorial army consists of two armored, six infantry, and one air-borne divisions, various independent and armored infantry brigades, artillery and engineer formations, corps and army troops

In the air force, the number of regulars in 1948 was about 110,000 Others made a total of 237,500 but many were to be released, and the force is in an uncertain condition with recruiting not adequate and gaps filled by draftees, of whom the air force is not fond The Royal Auxiliary Air Force is re-formed with twenty short-range fighter squadrons, twenty light anti-aircraft squadrons, and sixteen defense units for raid reporting and fighter control The R A F Volunteer Reserve has about twenty-five flying schools and centers, universities have fourteen air squadrons, eighty gliding schools with over 700 instructors are teaching cadets The Royal Observer Corps has 13,000 men and 2000 women studying identification and plotting the movements of strange aircraft The stress of research is on jet engines, gas turbines, controlled missiles and defense against them

The women's services continue on a voluntary basis the Women's Royal Army Corps (formerly the Auxiliary Territorial Service), the Women's Royal Air Force, and the Women's Royal Naval Service The first two are part of the army and air force respectively, the third is technically a civilian organization Women in these and the nursing service number about 40,000 In the air force, women are trained as pilots for nonoperational use in emergencies [18]

Great Britain is sensitive to the possibilities of atomic war on her small islands Plans are for factory work underground, for a munitions industry in Canada, e g , Ontario, for rocket ranges in Australia already in use, and for the development of Africa in economic and military ways as an auxiliary center of empire

## *CONCLUSION*

In the year 1949, the Labour government's plans for economic development and social welfare appeared in difficulty, the one was not able to support the other With the passing of the sellers' market and the beginning of competition for the favor of the buyer, the margin of profit narrowed and made it imperative to reduce costs of production The cost of the imported raw material and the price of the manufactured exports were set by the world and could not be manipulated by the government, as is done in Russia

Part of the cost of production, however, was the heavy taxation to support the welfare program Profits were always anathema to the socialists and were

[18] *Ibid*, pp 25-26

taxed to a shadow—60 percent on distributed profits, not including a special contribution tax, a surtax, and a possible death duty [19] There was little incentive to reduce costs of production if the saving goes in taxes In 1949 the government was frantically searching for a way to lower costs without curtailing the welfare program It needed to recognize the legitimate role of profits and allow them a proper field, and it could hardly avoid giving up some part of the welfare, bad though this might look at the polls The problem for any succeeding government, Labour or Conservative, is not the choice between free enterprise on one hand and socialism on the other but a method of running the two together as a team to produce the best results

For some years, at any rate, national ownership and control will mean not less work, more pay, and abundance of good things, as the socialists had promised, but more work and less reward in goods, whatever the nominal rate of pay Socialists are finding that in blaming capitalism they overlooked fundamental and unchangeable features of the British exchange economy

They had predicted that workers under nationalization would feel themselves partners in economic enterprise and would take much more interest in production The hope has not been justified to date in spite of some improvement in wages and conditions of work The public boards of ex-managers, civil servants, trade unionists, etc , are as remote as the old owners and seem less human The worker is still a cog in a machine without a voice in operation The condition is not inevitable, something might be done by joint production councils to encourage suggestions for improvement, and by technical and other training in the plant and out of it to facilitate promotion and make industry a career for talent Much might be done to make the factory a center of social life, as it is in some places, and to encourage social intercourse between white- and black-collar workers If class were let out of industrial life, the problem would be halfway to solution

The Labour government has fallen short of many of its promises It put the cart before the horse and committed itself to vast expenditures on welfare before it had the means to meet them In five years it has been unable to raise the standard of living as represented by diet and household and personal conveniences and cannot set a date for doing better by these things It has improved health, housing, economic security, and education, all of which might have been done by a Liberal or even a Conservative government Even if there should be some retrenchment, these benefits will persist in principle Much of its work accordingly seems permanent Socialism will have been tried and sifted, its good kept and its bad rejected, all within the traditional framework of British democracy and liberty The age-old temper of moderation and compromise will have asserted itself again

[19] Right Honorable Hugh Dalton, in *Report of the 47th Annual Conference of the Labour Party, Scarborough, 1948* (London, 1948), p 150

# Chapter 13

# *Outlying Parts*

## *SCOTLAND*

LOCAL GOVERNMENT in Scotland is supervised by the Secretary of State for the country The system was revised in 1929 and shows thirty-three shires (the term *county* is not popular), four royal burghs or counties of cities (Edinburgh, Glasgow, Dundee, Aberdeen), 196 burghs (24 large, 172 small), and 199 districts The large burghs have charge of local matters except education and in some cases police, which belong to the shire, the small burghs care for health and public services A district, besides its ordinary work, cares for recreation, rights of way, allotments

The voters in the district elect its own councilors and its councilors for the shire of every third year, and both sorts sit together on the district council On the shire council there are these elected members and members appointed by the councils of the burghs The counties of cities are independent of the shire council The district council is presided over by a chairman, the shire council by a convener, each chosen annually from the members A few fishing burghs are exempt from the requirement of elections at a fixed time and may suit themselves

The burghs elect one-third of the council every year The four royal burghs have one-third of the population and most of the wealth of the country The councils of Edinburgh and Glasgow contain two nonelective members, the dean of guild (chairman of a committee to administer the building acts) and the convener of trades, those of Aberdeen and Glasgow the former only The council elects a Lord Provost in the royal burghs, a provost elsewhere from its members to act as a mayor for three years, and baillies also from the membership to do police court work as well as council duty The baillies have a mere three-year term, provost and baillies form the burgh court Police are thirty-one shire forces, eighteen city and burgh forces—about 7000 in all—and are controlled by the Secretary of State for Scotland

In Scotland, common law is based largely on the principles of Roman law In each shire there are one or more sheriff's courts presided over by the

sheriff or his substitutes, professional lawyers These have elementary civil and criminal jurisdiction They may try civil matters except divorce and in criminal matters cannot impose penal servitude or capital punishment, which are reserved for the Circuit Court of Judiciary, corresponding to the assize court

The highest civil court is the Court of Session, in an Inner and an Outer House The Inner House is in two divisions, the first division consists of the Lord President, head of the Scottish legal system, and three other judges The second division contains the Lord Justice Clerk and three other judges The Outer House is a court of appeal and consists of five more lords of the Court of Session From it an appeal lies to the House of Lords

The highest criminal court is the High Court of Justiciary, under a Lord Justice General who is the same person as the Lord President and has the same personnel as the Court of Session Five or more judges are competent to try a case Each judge goes on circuit by himself and holds a Circuit Court of Justiciary for civil and criminal cases Juries are used and in criminal cases may give verdicts of guilty, not guilty, or not proven The High Court of Justiciary hears appeals from the lower criminal courts only on points of law and allows no appeal to the House of Lords

In large towns, the baillies of the local governing body sit as magistrates—the burgh court, elsewhere cases go to the sheriff's court Crown officials, the procurators-fiscal, conduct public prosecutions in these lower courts There is no coroner, where inquiry into deaths is necessary, the fiscal will do it [1]

Scotland has for centuries had a system of popular education John Knox suggested in the *First Book of Discipline* (1560) that every town should have a school, every parish a schoolmaster, and that all people should be compelled to bring up their children in learning and virtue Accordingly, once the Reformation was accomplished, the majority of churches in Scotland set up parish schools and often employed the same person as teacher and parish clerk With this advantage, many a poor Scottish boy rose to a high position in church or state in England and Scotland Grammar schools and academies followed, and there were four universities, Edinburgh, Glasgow, St Andrews, and Aberdeen when England had only two for a much larger population

In the nineteenth century, voluntary societies and other churches than the established one began to set up schools From 1883 Parliament made grants, and from 1885 the Scots had their own educational administration, the Secretary of State for Scotland becoming vice-president of the Scottish Department of Education In the meantime, the Education (Scotland) Act of 1872, counterpart of the English act of 1870 took the aided schools away from

[1] M Stewart, *British Approach to Politics* (New York, 1938), chap 21, *Postwar Britain, 1948-49*, pp 13-14, scattered references in MacColl and Hadfield, *British Local Government* (London, 1949)

churches, parishes, and associations and gave them to locally elected school boards with power to establish more schools where needed Elementary instruction was provided everywhere and secondary and technical education extended Later, the school boards were abolished and their power was given to counties and county boroughs as in England Meals, clothes, books, medical inspection were furnished free where needed The Education (Scotland) Act of 1945 applied the same policy as the act of 1944 in England [2]

Educational authorities may provide religious instruction, from which any parent may withdraw his child A joint committee on religious education, representing the Scottish churches and educational associations, publishes syllabuses of instruction for school use The Secretary of State may not inspect religious education or make grants in aid of it but the schools get the general grants as in England, from which sectarian instruction benefits

## *NORTHERN IRELAND*

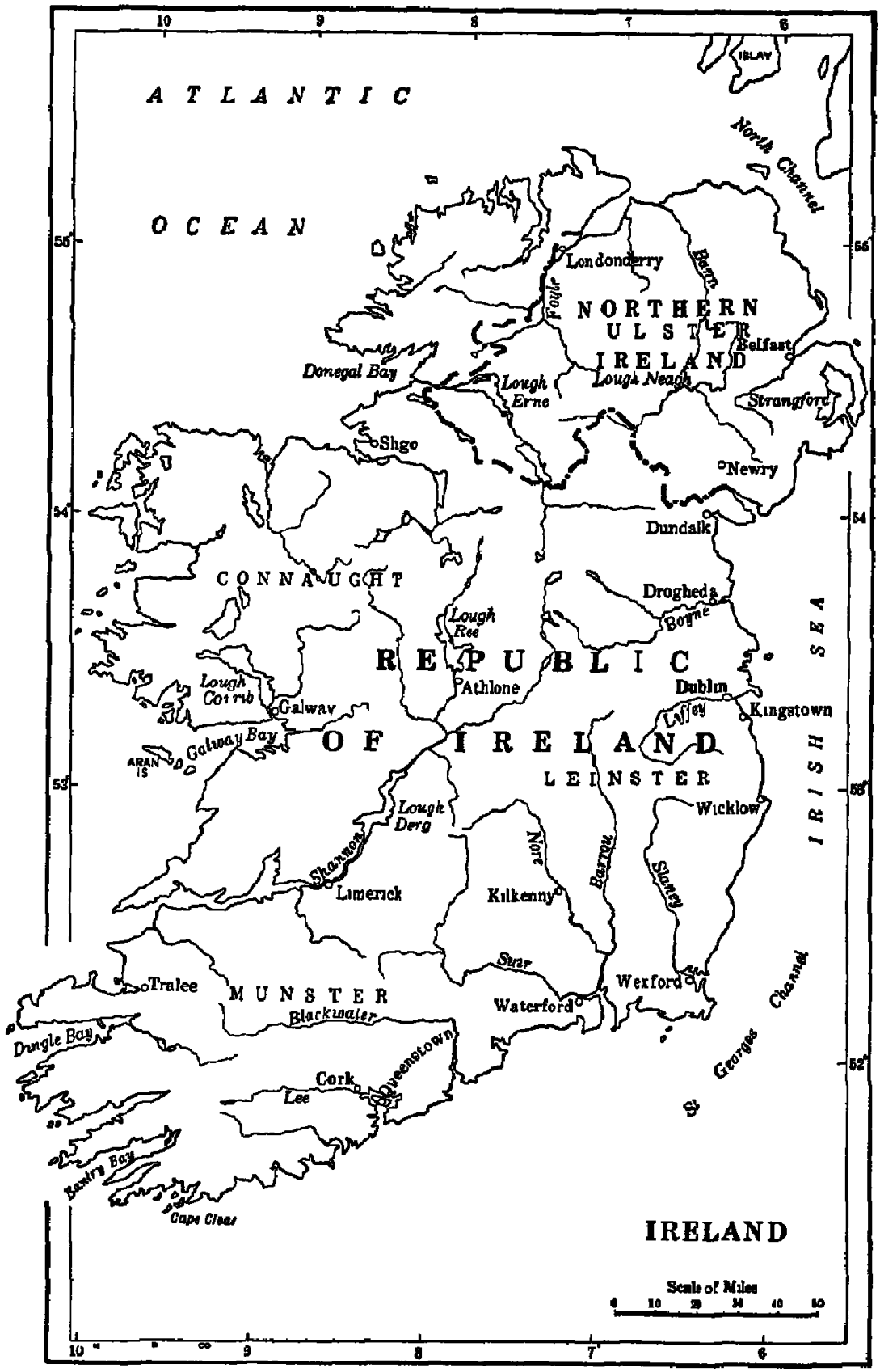
The province of Northern Ireland came into being by the Government of Ireland Act (1920) but in essence has been a separate community for three centuries and a half At the beginning of the seventeenth century, large tracts of land in this area were confiscated from rebel lords and given to settlers from the Scots-English border and from London The dominant element was Scots and almost all were Protestant They showed themselves enterprising and successful on the land and in business and have built up the best industry in Ireland entirely on their native qualities Surrounded by Roman Catholics who were lukewarm or averse to British control, they carefully cultivated their British and Protestant sentiments and have shown them at every crisis since they came to the country

In token of their feelings, they have formed strong Orange lodges which stand for the King and the Protestant religion These lodges in their present form date from the 1790's, they are federated by districts and counties and in the province and have fraternal relations with other lodges in the rest of the British Isles and the dominions, with whom they have formed an Imperial Grand Lodge Council Contrary to the general impression, the lodges teach toleration in religion They attract Protestant and loyalist stalwarts and are militants in the defense of their ideals The highest persons in the province belong to the organization

The population at present is about 1,348,000 and has increased 9 percent since 1901 while that of southern Ireland has fallen off The community is racially homogeneous, of every thousand inhabitants, only seven have been born out of the British Isles There are 257 persons per square mile as compared with 739 in England and Wales and 112 in southern Ireland As in England, the majority, about 53 percent, are town dwellers

The first industry is agriculture There are 90,000 holdings of over one

[2] *Education in Britain*, pp 23-24




From W E Lunt, *History of England*, Third Edition, Harper & Brothers, 1945

acre, 77 percent of which are under fifty acres Of the holdings, 79,000 are family farms, which means that nearly every countryman owns his own small farm He has the individualism and independence associated with this type of farming in full measure There are 3,000,000 acres of agricultural land, 1,100,000 are under crops like potatoes, oats, flax, the rest are for livestock These with their by-products—milk, cheese etc—yield 80 percent of farm income

The second industry is linen, which has nearly a fifth of the gainfully occupied population Shipping and shipbuilding, engineering, and textiles follow in that order, and there is manufacture of aircraft, ropes, and tobacco Belfast is the chief industrial center, Londonderry the second Industrial problems exist as elsewhere, rather over one person in ten was living in overcrowded conditions in 1937, defined as more than two to a room Industrially, the province is much more like Great Britain than agricultural southern Ireland

The prime matter, however, is religion The Roman Catholics are 34 4 percent of the population, the Presbyterians 30 5 percent, the Church of Ireland 27 percent, the Methodists 4 percent Divisions among Protestants are little regarded in Northern Ireland, where the great line is between Protestant and Roman Catholic Many Romanists would like to see the province incorporated into southern Ireland, which is overwhelmingly Roman Catholic They are disaffected toward Northern Ireland and the United Kingdom and elect members who do not take their seats in Parliaments and are called Republicans or Nationalists Most of the loyalists accordingly cling to the Ulster Unionist or Conservative party and have kept it in office since 1920 The minority, supported from the south, have on occasion resorted to violence and have provoked temporary measures of restraint on their activities The province is in a state of siege and cannot have a normal two-party system The leaders of southern Ireland, once impatient of British control, are continually trying to thrust their control on the north The northerners are on the defensive and have not been able to settle down

In these conditions, the Labour party has done little The rank and file are for the union with Great Britain "The people of northern Ireland and especially the Northern Ireland Labour party are very proud of their connections with Britain," declared a member at the Scarborough conference of the Labour party in 1948 [8] The leaders have hedged a little on the point to win votes and have suffered for it In the election of 1945, the Labour party elected three members One Independent Laborite was elected by the element in favor of the south There were two Independents, one Socialist Republican, and eight Nationalists who did not sit The Unionist party had

[8] *Report of the 47th Annual Conference of the Labour Party, Scarborough, 1948*, (London, 1948), p 115

thirty-five seats and Independent Unionists two, to make thirty-seven out of a total of fifty-two

The election of 1949 was fought in a storm of patriotism induced by the formation of a republic in southern Ireland Twenty of the forty-eight single-member constituencies had acclamations, the other twenty-eight were contested The poll by party was

| | |
|---|---|
| Unionist and Independent Unionist | 236,352 |
| Nationalist | 101,445 |
| Labour | 26,831 |
| Independent Labour | 7,970 |
| Communist | 623 |

The uncontested constituencies returned sixteen Unionists and four for southern Ireland (anti-partitionists) The sixteen have an electorate of 302,-189, the four, of 66,211 If these figures be taken as a basis, the voters were over three to one for the union with Great Britain The hedging of the Labour leaders merely lost them their three seats The standing by seats is for the union, thirty-seven Unionists, two Independent Unionists, one non-party for a total of forty Against the union were nine Nationalists, one Socialist Republican, one Independent Labour, one Independent for a total of twelve The four representatives of Queen's University, Belfast, were all for the union By seats, the members for the union have more than three to one over their opponents, as in the popular vote If the menace from the south should disappear, the Northern Ireland Labour party would form a working opposition to the dominant party

Northern Ireland consists of six counties Armagh, Antrim, Down, Fermanagh, Londonderry, Tyrone It has two large cities which are county boroughs and parliamentary boroughs, Belfast and Londonderry It stands in a federal relation to the United Kingdom of Great Britain and Northern Ireland, has a Parliament of its own and seats in the House of Commons at Westminster

The constitution is in the Government of Ireland Act with slight amendments since 1920, and is altered at Westminster A governor represents the King, a Senate and a House of Commons complete the legislature The Senate has two ex officio members, the Lord Mayor of Belfast and the Mayor of Londonderry, and twenty-four members elected by the House of Commons on the principle of proportional representation The term is eight years, independently of the life of the Commons, and half of the members retire every four years The senators elect a Speaker from their own membership who is also chairman of committees of the whole house They have no salary but have expense allowances, £300 a year for the leader of the house, £2 5*s* 0*d* a day for the others for attendance in the house and at parliamentary committee work, and travel money if they live out of Belfast Other expenses on government business are allowed for up to £200 a year

The Commons has fifty-two members who sit for five years They have a Speaker, a chairman of ways and means, and procedure as in the Commons in Westminster Each member has a salary of £200 a year, an expense allowance of £300, and travel money if he lives out of Belfast

The government of Northern Ireland may not act in excluded matters the crown, the succession, foreign and marine affairs, the armed services, trade out of its own area, etc It is limited in what are known as reserved matters like the post office, the Supreme Court of Judicature, etc , and may act only with approval from London Elsewhere it may act for itself It has limited financial powers, it does not control customs, excise, income taxes, and taxes on profits and capital, which go to the exchequer in London as reserved revenue From these, the Treasury deducts sums for the common services of the United Kingdom like the debt, the armed forces, the customs, the courts, the details being settled by a joint board, and it remits the rest to the Treasury of Northern Ireland The payment is often called a subsidy but is merely Northern Irish money coming home again after the discharge of mutual obligations By itself, the province has a death duty, a stamp duty, taxes on motor vehicles, entertainments, and mineral rights, and a few excise and license fees

Certain restrictions are laid on the Parliament by the Government of Ireland Act, it may not interfere with religious equality or take property without compensation It has shown no desire to do these forbidden things

Separate registers are kept for the Belfast and the London Parliaments The voter for the Belfast Parliament must be a British subject, twenty-one or over, born in Northern Ireland or a resident of the United Kingdom for seven years He or she must have lived in the constituency three months or had business premises there of the value of ten pounds a year or had a spouse with the qualifications Members of the armed forces and the merchant service are exempt from the requirement of residence Queen's University, Belfast, is a separate constituency for which all graduates who are British subjects may vote The register is compiled every three years by the electoral officer who in a county is the secretary of the county council, in Belfast is the town clerk Londonderry is treated as part of its county in this respect In boroughs and urban districts, the town clerk or the district clerk does the duty and publishes the list by polling districts, with the customary provisions for correcting errors There are forty-nine constituencies and fifty-two members, as Queen's University has four representatives

For the Parliament of the United Kingdom, the voters' qualifications are as in Great Britain There are thirteen seats, one of which is Queen's and to be abolished for next election with other university seats The registration officer is the clerk of the crown and peace for the county or the county borough and has the help of county secretaries, town clerks, and clerks of urban districts These are "overseers," who have files of the people from the

wartime identity registration and the movement cards since 1945, issued by the Food Office They bring these lists up to date and freeze them on June 30 The registration officer checks the names, takes complaints and rectifies them if he thinks they are justified, and publishes the register in mid-October

Northern Ireland has a privy council of its own and an executive committee of this council which is the cabinet The members must obtain seats in Parliament within six months of appointment except for a latitude allowed to ministers without portfolio They may speak in both houses but vote in only one, that of which they are members There are at present a Prime Minister and Ministers of Finance, Home Affairs, Labor and National Insurance, Education, Agriculture, Commerce, Health, and Local Government, one of these is a senator (1948) The Prime Minister and the Finance Minister have parliamentary secretaries, they and the others have permanent civil service secretaries who are heads of the departmental civil services

For local government, there are six counties, two county boroughs, five ordinary boroughs, twenty-eight urban districts, thirty-two rural districts, and three town commissions The voter is owner or tenant of a house, land, or business premises of ten pounds value or spouse of such and may vote in more than one local government area if he qualifies The councilors are elected triennially in May and June of the registration year The members sit for three years and in county and other boroughs elect aldermen for six years, half to retire every election year Vacancies for ordinary members are filled by cooption, in the two sorts of boroughs at by-elections

The counties are in electoral divisions to return representatives to the county councils In county boroughs, ordinary boroughs, and twelve urban districts, the unit is the ward, in rural areas, it is the district There are 129 county electoral divisions, 90 urban and 613 rural ones, six county councils, two county borough councils, five borough councils, twenty-eight urban district councils, thirty-two rural district councils, and three towns governed by commissions with limited powers, somewhat like villages in the United States

Education is administered by the Minister of Education for Northern Ireland and managed by the councils of counties and county boroughs as in England and Wales—the education authorities An act of 1947 brings the system into line with that of Great Britain under the act of 1944 Northern Ireland has the same division of provided, transferred, and voluntary schools, to which the minister may make grants 196 provided, 493 transferred, 972 voluntary in 1945 There were seventy-six secondary schools, (nineteen for boys, thirty-four for girls, twenty-three mixed), nineteen junior technical schools, twenty-seven commerce schools, ten schools for domestic science, and three training institutes for elementary teachers Most of the public elementary, most of the secondary schools, a few technicals are voluntary and keep the problem of paying for someone else's religion alive in Northern Ire-

land as in Great Britain The compulsory attendance age is six to fourteen Midday meals and milk are furnished, free to the needy

Secondary education lasts for four or five years and leads to junior certificates and senior certificates, the latter of which are entrance requirements for universities, teachers' colleges, and professional bodies As alternative there are the technical and commercial schools and there are evening technical classes for adults Belfast has a municipal college of technology and Queen's University, which dates from 1845 and has about 2000 students

The judicial system is simpler than that of Great Britain and has points of resemblance to R M Jackson's plan Of inferior courts, there are petty sessions, quarter sessions, and county courts, of superior courts, there are assizes, a Supreme Court of Judicature, a Court of Criminal Appeal, and a Railway and Canal Commission with judicial powers Finally, there is the House of Lords in Westminster

The petty sessions are held by resident magistrates on salary like the stipendiary magistrates in England They number ten for 101 petty sessions districts They used to have the company of unpaid J P 's but now manage by themselves except in a few minor cases Quarter sessions and county courts both fall to a set of five judges, called county court judges and, of course, professionals, of whom two have also the title of recorder Quarter sessions deal mostly with criminal matters but cannot touch treason and a few other matters which are for the assizes Otherwise, the criminal work of quarter sessions and assizes is largely concurrent, and which has a particular case is a mere affair of convenience The county courts take civil disputes up to £100 value and some others, they also do some equity work and probate small estates Appeal lies from them to the assizes and thence to the Court of Appeal or to the Lord Chief Justice in equity matters, as there is no lord chancellor

The judges of the Supreme Court of Judicature, five in number at present, hold spring and summer assizes in each county and a winter assize for the province except Belfast at a selected center In Belfast a judge of the Supreme Court sits four times a year for assize work

The Supreme Court of Judicature is in two divisions a High Court of Justice, which is a superior court of first instance, and a Court of Appeal The High Court of Justice consists of a Lord Chief Justice and two justices, the Court of Appeal of the Lord Chief Justice and two Lords Justices of Appeal The Court of Appeal may review the work of the High Court of Justice, he Railway and Canal Commission, and the county courts

The High Court of Justice has a King's Bench and a Chancery division which do much the same work as the judicial bodies in London with the same names There being no chancellor, the Lord Chief Justice does the work with wards and trusts, etc The Court of Criminal Appeal consists of all the judges of the Supreme Court of Judicature and sits usually in Belfast—may sit elsewhere if it so chooses The lawyers are barristers belonging to an Inn of

Court of Northern Ireland, or solicitors under a Law Society of Northern Ireland It will be seen that the judges are few and are all professionals and the system of courts is simple and logical In these circumstances, costs for litigants are not such a problem as in England, and on the whole, Northern Ireland seems to have done well by itself in this respect [4]

## *ISLE OF MAN*

The Isle of Man, 220 square miles in area, has a population of 50,000 who live chiefly from agriculture and the tourist trade It has a separate national church under the Bishop of Sodor and Man, in all respects like the Church of England and managing its own affairs under the legislature

At the head of the government is a Lieutenant Governor appointed by the crown He is assisted by the Council, the House of Keys, and the Tynwald court Acts of the Parliament in London do not apply to Man unless they so state

The Lieutenant Governor presides in the Council and the Tynwald court, is head of the executive, does the duty of a chancellor of the exchequer, and has a veto on laws Acceptable bills he signs and sends to the King The Council is the Lieutenant Governor, the Bishop, the clerk of the rolls, two deemsters or magistrates, the Attorney General, two members appointed by the Lieutenant Governor, and four by the House of Keys This house has twenty-four members elected by the four towns and the country districts, called sheadings, for a period of five years

As legislative bodies, the houses sit separately As the Tynwald court, they sit side by side with coordinate powers to transact business of an executive nature and sign bills This court controls revenue, subject to directions from the Treasury, and appoints boards to manage harbors, highways, education, local government, asylums, relief The customs duties are fixed in London In 1946, the Tynwald set up an executive committee to act with the local government The committee is from chairmen of boards and two members of the Keys

On the judicial side, there are coroners, justices of the peace, high bailiffs, who correspond to stipendiaries and hold weekly courts in the towns, and the two deemsters, who correspond to the assize judges On the criminal side, the supreme court is called Court of General Jail Delivery, presided over by the deemsters and the clerk of the rolls On the civil side, the Appeal Court is composed of a High Court judge from London and an appeal judge, a barrister approved by the crown The deemster on assize has a jury of six in a criminal case Advocates of the Manx bar are both barristers and solicitors

## *CHANNEL ISLANDS*

The Channel Islands lie close to France and are the relics of the duchy of Normandy The area is seventy-five square miles, the population 100,000,

[4] *Year Book of Northern Ireland* (1947)

living off tourists and the soil The official language is French, but English is in general use and understood by nearly all The principal isles are Jersey, Guernsey, Alderney, and Sark, famous for their cattle For administrative purposes, they are divided into Jersey and the bailiwick of Guernsey, including the other isles Each has a military Lieutenant Governor, appointed by the War Office on the advice of the Home Office, a Bailiff or chief magistrate, and two officers corresponding to the attorney and the solicitor general The Bailiff is president of the States (assembly) and of the Royal Court

The States of Jersey are composed of the Lieutenant Governor, who has a veto, the Bailiff, twelve jurats or representatives elected for life, twelve constables or mayors of parishes elected for three years, seventeen deputies of the constables, also elected for three years, the rectors, and the two law officers If the Bailiff dissents from a measure, he sends it to the Privy Council He is the channel of communication between the Lieutenant Governor and the administrative departments Acts of Parliament are sent to be registered in Jersey and may be delayed for discussion Jurats may not belong to certain trades or religions and may not be women The constable is effective head of the parish, manages its affairs, presides over the parish meeting, and keeps law and order The Royal Court is composed of the Bailiff and the twelve jurats

Guernsey has Deliberative States and States of Election The Deliberative States are formed in a similar way to the States of Jersey The twelve jurats are elected by an electoral college, the States of Election are composed of the Bailiff, the two law officers, the jurats, the rectors, the constables, the *douzaniers* or parish councilors, and eighteen deputies elected by adult suffrage for three years The jurats hold office for life, sit in both States and serve in administrative departments, they must not belong to certain trades or religions

The Bailiff and the jurats form the Royal Court, which is both judicial and legislative, it has power to pass ordinances of a provisional nature between sessions of the States It prepares bills for the States also The jurats in the royal court in both groups of islands are judges of law and fact, in Jersey they use a jury, in Guernsey they do without it The Bailiff and two jurats form a court of first instance called Inferior Number, appeals lie to the Superior Number, of the Bailiff and seven jurats Further appeals are to the judicial committee of the Privy Council

Much in this political and judicial system is out of date A committee of the Privy Council inquired into it in 1946 and made proposals for reform which have not been acted on yet [5]

[5] Home Office, *Report of the Privy Council on Proposed Reforms in the Channel Islands* (London, 1947)

# *Appendix to Part I*

## The Church

The Church of England is established, as has been mentioned Its clergy take the chief if not the only part in state ceremonies The bishops are appointed by the Prime Minister and most of them sit in the House of Lords The two Archbishops, of Canterbury and York, are members of the Privy Council and may state their views on anything They led the protest against Edward VIII's intended marriage to Mrs Simpson and are by way of being guardians of public morality Commoner matters which bring the church into politics are ritualism and church property The ritualists, looking to John Henry Newman as their spiritual father, have sought to revive medieval features of church practice and doctrine and stress the continuity of the church from apostolic times and the authority of the clergy They are in several groups, the extremists call themselves Anglo-Catholics They have more or less influence with one in ten of the clergy at present The laity generally dislike the movement as Roman in tendency, but as usually they pay little of the salary, they find it difficult to control their clergymen directly The controversy came into politics over a revision of the Prayer Book in 1927 which was accepted by representative church bodies and rejected by Parliament, by reason of its supposed Roman tendencies

The property of the church is in a strange confusion The church does not hold it as such, not being a single corporate body in law The property is held by the various corporations in it like the bishoprics, the deans and chapters of cathedrals, the rectors of parishes, the Ecclesiastical Commission, Queen Anne's Bounty The endowments were made by donors through the ages without regard to the needs of the church as a whole and present strange anomalies of tenure and salary The modern representative of the founder is the patron and has the right to present to the living (i e , appoint a clergyman), no matter what the congregation think of the prospective incumbent The variation of endowments, the advowsons, the patronage have raised many questions and controversies Conceivably the endowments could be pooled, salaries equalized, promotion made by ability, the laity joined in control with the clergy as in Scotland, but this is not likely to happen in the near future The church does not enjoy a regular revenue from Parliament, it has occasional

subsidies, e g , for buildings, a need increased by the bombings of the war In 1930 the revenue of the church was estimated at over £13,000,000 a year The Archbishop of Canterbury had £15,000 a year, the Archbishop of York £10,000, and the average of bishops was over £4,000 The cathedral dignitaries average £875 in 1921, the parish incumbents £426 One curious feature is that advowsons and livings in certain conditions are bought and sold or exchanged

Efforts have been made to redistribute some of the revenue without a drastic change There is an Ecclesiastical and Church Estates Commission, consisting of the Archbishops, bishops, three deans, certain cabinet ministers and judges, and twelve other laymen appointed by the Prime Minister to administer certain properties and apply the revenue to the general work of the church and the help of needy parishes Most of the work is done by three commissioners, forming an Estates Committee The first and second commissioners are appointed by the crown, i e , the Prime Minister, and the third is usually a member of Parliament on the government side who answers questions in the Commons and is not a minister

Queen Anne's Bounty is a corporation by law to help clergymen on insufficient salary It has an endowment of securities and was long responsible for collection of tithe Originally a tax of one-tenth dating from Saxon times, the tithe became a charge on rent in 1836, varying with the price of grain over a period of seven years In 1936 the tithe-rent charges were abolished on condition of compensation to the owners The former payers have been paying redemption annuities since that year and will eventually be rid of them to settle an old question

The traditional assemblies of the clergy were convocations in each province, the bishops forming an upper house, the clergy a lower house The laity were unrepresented In 1919 a national assembly was created of three houses —bishops, clergy, laity—the delegates of the last being elected indirectly by parish meetings of communicants Any innovation must pass all three houses The assembly does not limit the powers of convocations or bishops in their own spheres but assures the laity of a voice in church affairs

The assembly has a legislative committee which presents proposals to the Ecclesiastical Committee of both houses of Parliament consisting of fifteen lords appointed by the Lord Chancellor and fifteen commoners appointed by the Speaker This committee considers the proposals and presents them to Parliament, which has the last legal word The assembly has made some changes in church administration and has given parishioners the right of protest against appointments made by patrons But many problems of patronage and property remain [1]

[1] A B Keith, *The Constitution of England from Queen Victoria to George VI* (New York, 1940), vol II, chap 26, H R G Greaves, *The British Constitution* (New York, 1938), chap 10.

## Statistics on Agriculture

Farming uses about 48,000,000 of the 60,000,000 acres in the United Kingdom and employs 1,250,000 people In England and Wales there are 24,200,000 acres in crop or grass and about 300,000 holdings above five acres Three-quarters of these, about 30 percent of the area, are under 100 acres Dairying predominates Statistics in June, 1948, were

| Livestock | | Foodstuffs | |
|---|---|---|---|
| Cattle | 9 8 millions | Bread grains | 2,272,000 tons |
| Sheep | 18 2 " | Other grains | 5,396,000 " |
| Pigs | 2 1 " | Potatoes | 12 million " |
| Poultry | 85 2 " | (estimate of June, 1948) | |

British farms had 272,180 tractors, 5000 combines in 1948 The standard wage was ninety shillings per week of forty-eight hours

Scotland has 19,000,000 acres, 4,500,000 are tillable, 11,000,000 are hill grazings, the rest are fit only for game The Scots grow little wheat, they favor oats first, roots, potatoes, and barley [2]

## Distribution of Man-Power (as of June, 1948) [3]

| | |
|---|---|
| Armed forces and auxiliary services | 847,000 |
| National and local government service | 2,128,000 |
| Public utility services | 275,000 |
| Transport and shipping | 1,472,000 |
| Commerce, finance, professions | 2,157,000 |
| Distributive trades | 2,354,000 |
| Building and engineering | 1,375,000 |
| Mines and quarries | 839,000 |
| Civil defense, firemen, police | 91,000 |
| Agriculture, horticulture, fishermen | 1,116,000 |
| Manufacturing industries | 7,250,000 |

The national income for 1948 is estimated at £9,000,000,000 pounds, of which personal consumption took 69 percent, government 22 percent, capital formation 12 percent less external disinvestment—3 percent

The total tax liabilities for 1948 were 28 percent of personal income as compared to 21 percent in 1938 The group with income from £500 to £1000 paid 20 1 percent The standard rate of income tax was nine shillings on the pound but bore lightly on the first £250 of income Everyone with an income of over £135 pays a tax, he has a personal allowance of £110, a marriage allowance of £180 If the wife works, she gets her £110 over and above the common £180 allowance A child is worth £60 on the income tax [4]

[2] *Postwar Britain, 1948-49*, p 164
[3] *Ibid*, p 83
[4] *Ibid*, pp 60, 61, 83

## Occupations of Members of Parliament, 1946 [5]

| | | | |
|---|---|---|---|
| Lawyers | 89 | Lecturers | 18 |
| Commerce, finance, industry | 76 | Miscellaneous | 18 |
| Trade-union officials | 49 | Agriculturists | 18 |
| Miners | 41 | Doctors and dentists | 16 |
| Authors and journalists | 39 | Transport workers | 16 |
| Army | 37 | Clerks | 14 |
| Not gainfully occupied | 33 | Cooperative workers | 11 |
| Teachers | 32 | Navy | 11 |
| Local government officers | 26 | Minor professions | 11 |
| Administrative officers | 25 | Accountants | 9 |
| Artisans | 21 | Air force | 9 |
| Engineers | 18 | Ministers of religion | 4 |

## Ministers' Assistants

Undersecretaries of state in 1948 were attached to these departments Air, Colonies, Commonwealth Relations, Foreign Affairs, Home Office, Scotland (two)

Parliamentary secretaries were attached to these departments Agriculture and Fisheries, Civil Aviation, Education, Food, Fuel and Power, Health, Labor and National Service, National Insurance, Pensions, Supply and Aircraft Production (two), Town and Country Planning, Board of Trade (two, one for overseas trade), Transport, Treasury, Works

The War Office and the Admiralty each had a parliamentary and a financial secretary, the Treasury a financial secretary, the Postmaster General an assistant [6]

## Relations with Southern Ireland

A bill of May, 1949, after the proclamation of the republic in southern Ireland (April 18, 1949) gives that country a special intermediate status between the commonwealth and foreign countries Irish citizens are not to be treated as aliens in Great Britain, Irish ships and planes are not to be regarded as foreign Ireland is not to be described as foreign or as a dominion and Irishmen are not to be listed as foreigners Irishmen in Great Britain can claim British citizenship merely by applying for it All these stipulations hold good with British people, planes, ships, etc, in southern Ireland, *mutatis mutandis*, and a common citizenship is (practically) established

[5] S Gordon, *Our Parliament* (London, 1948 ed), p 56

[6] Lord Hemingford, *What Parliament Is and Does* (New York, 1948), pp 108-110

# Bibliography

The literature on the government and constitution of Great Britain is enormous Some idea of it can be had from an excellent recent book, *The Major Foreign Powers, the Governments of Great Britain, France, the Soviet Union and China* by John C Ranney and Gwendolen M Carter, 1949, Appendix, pp 34-53 The writer is glad to acknowledge his debt to these authors for many suggestions, and in these pages he will merely indicate a few sources useful for classes in the universities

The best source of information about current doings of the government is the Stationery Office, London, which will fill orders by post or through a bookseller It provides a convenient means of following the debates in Parliament by the issue of *Weekly Hansards* as well as the bound volumes published after each session It issues the texts of bills, acts, orders, reports, etc , and puts out full monthly lists of its publications as well as semiannual and annual lists It brings out the well-known white papers, which are usually statements or explanations of policy, and reports of royal commissions, select committees, departmental and consultative committees, and even those by individuals like Sir William Beveridge The annual reports of departments like Health and Education are indispensable for studies of their work Many of these papers of all sorts are available at the offices of the British Information Service, 30 Rockefeller Plaza, New York

For the constitution in general, A B Keith, *The Constitution of England from Queen Victoria to George VI*, 2 vols , 1940, gives an extended treatment, W I Jennings, *The British Constitution*, 1941, an excellent short account Michael Stewart, *The British Approach to Politics*, 1938, is a good and readable text The latest is Wilfrid Harrison, *The Government of Britain*, 1948, which treats of the Labour government's policies K B Smellie, *A Hundred Years of British Government*, 1946, traces developments from 1832 Ramsay Muir, *How Britain Is Governed*, 1930, gives the Liberal view, Quintin Hogg, *The Purpose of Parliament*, 1947, the Conservative On the side of Labour, there are several intellectuals who write so much that they have no time to think The matter runs thin and contradicts itself as book succeeds book, which does not seem to discourage them Of this group we may select H J Laski's *Parliamentary Government in England*, 1938 The

rank-and-file Laborite, who is a patriot with a veneer of socialism, has not yet found a spokesman

The mental attitudes of the English people are analyzed in books like D W Brogan, *The English People*, 1943, Wilhelm Dibelius, *England*, 1930, C C Brinton, *The United States and Britain*, 1945, P Maillaud, *The English Way*, 1946, G Witting (ed ), *Sweden Speaks*, 1942, J M Gaus, *Great Britain, a Study of Civic Loyalty*, 1929 All of them seem inadequate to one who has lived in the country but each has value

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The position and duties of the King are described in M MacDonagh, *The English King*, 1929, and K Martin, *Magic of Monarchy*, 1937

Cabinet government is covered by W I Jennings, *Cabinet Government*, 1936, and by A B Keith, *The British Cabinet System 1830-1938*, 1939 H Finer, *The British Cabinet, the House of Commons and the War*, 1941, deals with one aspect The secrecy of discussion, entirely justifiable as a matter of politics, has made it impossible to give an intimate account of a cabinet at work The lives of Prime Ministers are of little help in this respect The British Information Service has two pamphlets *How the British Cabinet Functions*, I D 779, and *The Prime Minister and His Staff*, I D 793 There is room for an extended study of the Prime Minister by himself

For the work of the departments, the best sources are the reports and articles in magazines like *Political Quarterly*, (London), *Political Science Quarterly*, (New York), *Public Administration*, *American Political Science Review*, *Fortnightly Review* The B I S has many mimeographed articles on the work and intentions of the Labour government and a list of publications Sir T L Heath, *The Treasury*, 1927, is valuable for this important department

Fundamental for the social services in general is Sir William Beveridge, *Social Insurance and Allied Services*, 1942 The B I S has a pamphlet, *Britain's Charter of Social Security*, 1948, and *Social Services in Great Britain*, I D 780, revised The quarterly review, *Labor and Industry in Britain*, is most important for the work of the Labour government, it approximates an official publication of the party and is naturally favorable A discussion of social security is found in W A Robson (ed ), *Social Security*, 3rd ed , 1947 E W Cohen, *English Social Services*, 1948, is a summary

Health services are described in the annual reports of the Chief Medical Officer to the Ministry of Health and of the Department of Health for Scotland The B I S has a pamphlet, *Health Services in Britain*, I D 783, revised, August, 1948

For education, there is a B I S pamphlet, *Education in Britain*, I D 606, on the plans of the Labour government H C Dent, *The Education Act 1944*, 1944, elaborates on it The background is given in C Birchenough, *History of Elementary Education in England and Wales from 1800 to the Present Day*, 1938, G A N Lowndes, *The Silent Social Revolution, an Account of the Expansion of Public Education in England and Wales 1895-1935*, 1937, and Sir C G Robertson, *The British Universities*, 1944

Plans for agriculture are found in an article in *Labor and Industry in Britain*, February, 1947, pp 135-140

Local government has H Finer, *English Local Government*, 1934, E L Hasluck, *Local Government in England*, 1936, W E Jackson, *Local Government in England and Wales*, 1945, H Townshend-Rose and H R Page. *Local Government Up to Date 1939-45*, 1946, E C R Hadfield and J E MacColl, *British Local Government*, 1949 For London, there is W A Rob-

son, *The Government and Misgovernment of London*, 1939, for Scotland, W A Warwick, *Scottish Local Government*, 1939 The B I S has a pamphlet, *Local Government in Britain*, I D 800

The civil service has H M Stout, *Public Service in Great Britain*, 1938, H Finer, *The British Civil Service*, 1937, H E Dale, *The Higher Civil Service of Great Britain*, 1941, E N Gladden, *The Civil Services Its Problems and Its Future*, 1948, W A Robson (ed ), *The British Civil Servant*, 1947

For the courts, the best is R M Jackson, *The Machinery of Justice in England*, 1940 Also there are H Pendleton, *Criminal Justice in England*, 1931, R C K Ensor, *Courts and Judges in France, Germany and England*, 1933, C P Patterson, *The Administration of Justice in Great Britain*, 1936

Statistics are generally from *Postwar Britain 1948-49* (Central Office of Information, London)

PART II

# *The Government of France*

By JULIAN PARK

# Chapter 14

# *Land and People*

SHOULD one think of France as a country only with a past? Has she ceased to be a laboratory for significant political and cultural experiments? Have the democratic ideals of 1789 and 1848 given way to defeatism, even despair? If so, the approach of the student of political science to French problems is different, obviously, from his approach if he believes that she has an interesting, important future as well as a glorious and glamorous past

Yet of all countries France is the most unpredictable, even to her own sons A hundred and seventy-five years ago or so Montesquieu wrote "One of the things which must be noted in France is the supreme facility with which she always recovers from her losses, diseases, casualties, and the resilience with which she always withstands or even overcomes the vices of her various governments It may well be that she owes this faculty to her very diversity, which does not allow any evil to take root and destroy the fruit of her natural advantages "[1]

For some of what follows that quotation can well be used as a text, because it puts in two pregnant sentences the continuity of much of French history, psychology, and temperament He who craves variety and excitement in history can find it best in that of France from any date he wishes to select—let us say, from Joan of Arc down to this very moment He who would dissect the strange and profound working of the collective human mind under strain and stress can find them, as well as anywhere, in the experiments of the body politic of France groping for the solutions of their largely self-made difficulties from 1789 to 1949 It was a Bismarckian, Hitlerian obsession, based on the defeats of 1870 and 1940, that France was done for Nations, maintained those prophets of a better order, have (as is perfectly obvious to the historians, notably Spengler and Toynbee) their cycles, they rise and they fall, for a time they sail along on an even keel, but history must be viewed not as the events of the last three or four generations, rather as the encompassing sweep of centuries The Germanic rise was as slow, from Frederick the Great to Hitler,

[1] *Mes Pensees*, in *Oeuvres Completes*, ed Pleiade (Paris, 1949), p 1099

but as sure as the French fall, after 1815, was slow and sure the result of physical and moral degeneracy, love of power without the means to maintain it Let the French recognize how inescapable it all must be, accept, as the realists we know them to be, the new situation with as good grace as possible, and retire to the place among the second- or third-rate powers which Spain, Portugal, Sweden, once almost as great as France, have, bowing to the inevitable, agreed henceforth to occupy

Such was the shock of defeat, the greatest known to all history, that for a few months in 1940 it seemed that the French really had accepted all that theory of the masterfolk In this they were aided and abetted by their two leaders, Laval and Petain, one of whom had for many years been a glorified national hero, Foch's successor, as chief of staff When Pétain promptly accepted defeat, it was almost as if Eisenhower had said that the "Battle of the Bulge" was final and the invasion had failed

But first ill-organized, spasmodic resistance, then a year or so later an underground army gave the Germans as well as the outside world notice that that resilience remarked by Montesquieu was still a fundamental part of the French character If "Britain's finest hour" lasted from Dunkirk to the battle over London, that of France was longer in coming only because of an occupation so thorough, so brutal, as to necessitate slower infiltration

At first resistance seemed impossible The odds were too terrible But what the underground was fighting so tenaciously for was something that the Germans could never understand, because they had never known it Here, preeminently, is where devotion to an ideal becomes a factor of greater force than machine guns One cannot fight what one does not understand, because the weapons are too different Liberty the Nazis, obviously, never had, nor had their ancestors before them Liberty the French had attained, a hundred and fifty years before—had attained it at such cost and found it so precious, so beautiful, so necessary, that they would defend it at the price of their tortured and mangled bodies

Later in this survey of French institutions some note will perforce be taken of the Vichy government and of its strange and devious maneuvers Here the endeavor is to link the present with the past, to show both the responsibility and the importance of the historical factor as conditioning the lives of those intelligent enough to understand it, to profit by it

## *DEMOGRAPHY*

Let us first examine the demographical situation of France to see what changes have been wrought by successive economic and social concepts When does overpopulation exist? The answer depends, of course, on conditions which change from generation to generation Probably France was overpopulated on the eve of the Revolution, and could not feed her people in the state of her agricultural development of that time, that distress, regarded

so callously by the government and aristocracy, was of course one of the principal causes of the Revolution Arthur Young,[2] probably the best first-hand source of information on social and agricultural conditions of the time, thought that the excess population was as much as 5,000,000 Overpopulation is generally considered to exist whenever there are more people than can be supported without lowering the average standard of living of the masses Some observers have imagined that the realistic French must somehow have arrived at a general understanding as to what France's optimum population should be, i e, the number of people which can best be maintained with proper attention to an agreed upon, or appropriate, standard of living Obviously human nature is too variable for any such decision, since the reproductive instinct will not be conditioned by respect for what has been mathematically worked out by scientists or churches

In his famous Code (briefly discussed on p 336) Napoleon himself, however unwittingly, set the pattern for small families That part of one's estate which could be disposed of outside the family was limited by the Code to one-fourth, and it might be less if there were more than three children, diminishing as the size of the family increased This sliding scale practically eliminated liberty of bequest when the family attained patriarchal dimensions The natural result in an agricultural country was that the birth rate suffered a serious and prolonged check The Napoleonic Code must not receive more than its proper share of the blame for the stationary population of France Other factors have been deferment of marriage, a corollary of that peculiarly French institution, the *mariage de convenance*,[3] which has prevailed until the present generation, infant mortality and woeful inattention to sanitation, and, in each generation since the Revolution, wars foreign and domestic[4] During the years when military and political questions preoccupied the government at the expense of social and agrarian reforms, the very survival of the nation seemed to be at stake By 1914 the population of Germany was nearly 70 percent in excess of that of France, the population of Italy was about equal, and each of these two neighbors, under the sway of their dictators, was to make still further numerical advances

[2] His famous tours in France were made from 1787 to 1790, the results of his observations being published in *Travels in France* (1792, with many subsequent editions, some of which are easily accessible)

[3] A marriage arranged by the parents *Convenance* means fitness, seemliness, not convenience

[4] Bodaart and Kellogg, *Losses of Life in Modern Wars* (New York, 1916), estimate that the wars of the Revolution cost France a million lives, those of the First Empire a million, and the Crimean War, the Prussian War, and the colonial adventures of the nineteenth century another million These losses must be increased by 15 to 20 percent to allow for the permanently disabled To these estimates must also be added the indirect mortality traceable to war and the children not born who otherwise would have been born The last-named aspect of the matter is especially noteworthy during the Second World War

With a population exceeded in 1800 by no other entirely European country, France saw her population outstripped in the nineteenth century by that of Germany as early as 1850, by Austria-Hungary in 1880, and by Great Britain in 1900 The distribution of the population has also presented an interesting picture France, even more perhaps than Italy, has been predominantly an agricultural country Nature has been kind to France even more than to Italy, in so far as she has distributed her bounties of arable land and favorable climate more generously The spur of the Apennines running almost the length of the Italian peninsula makes difficult of access one side of the country from another, and limits the use of thousands of square miles to grazing land France's only counterpart is the *massif central* and the slopes of the Pyrenees and the Alps, which she divides with her neighbors

France, demographically speaking, has no such concentration of population as there is in Milan, Naples, and Rome The census of 1946 shows a population of 40,517, 923, of whom 1,670,729 are foreigners It is a decrease of 3 percent from 1936, representing war losses of about 600,000 [5] There were (1946) only six cities with a population over 200,000 Paris with about 4,000,000, Marseille with 636,000, Lyon with 460,000, Toulouse with 264,000, Bordeaux with 253,000, Nice with 211,000 A 1951 census would show over 42,000,000

Where democrats and authoritarians agree is, of course, on the danger represented by a declining or even stationary population In 1939 France's demographic situation was alarming, from several points of view Of these the first was the large proportion of old people and the small proportion of young, which made France the "oldest" country in the world The number of people over sixty, which was about 7 percent in 1900, is now 16 percent and is constantly rising, because of the obvious increase in the interest, mental as well as physical, now being shown in old people in every country It is true that for a few years just prior to the war several countries (Switzerland, Norway, England, the United States) showed a birth rate inferior to that of France, but in their case the movement was comparatively recent, whereas (as mentioned elsewhere in this section) the first symptoms of a declining birth rate are seen in France about 150 years ago By 1939 no other country had so exhausted the reserves of energy accumulated in the course of the previous phase of increase One wonders whether, in the light of the habits of those 150 years, France would have been sufficiently alarmed to do anything official about the situation if it had not been for the highly stimulated increase in the population of her two totalitarian neighbors

[5] The losses in killed were 150,000 in the armed forces, 150,000 killed in the resistance or murdered by the Germans, and about 325,000 prisoners and civilian deportees who died in German labor camps (Source *Le Probleme Demographique Français*, publication of the Institut National d'Etudes Demographiques, October 15, 1948) See also André Caubet, "Situation Démographique de la France," in *France-Illustration*, December 18, 1948

Why did France more than any other country dread the war of 1939? Morally as well as materially she was unprepared, but one of the chief factors was the memory of the war of 1914, which had cost her not only 1,350,000 military deaths but a deficit of 1,500,000 births over "natural" deaths The war of 1914 was as disastrous to the French population by the births which it prevented as by the deaths which it caused During these four and a half years the number of annual births decreased by an average of 42 percent Those young men would have been about twenty years old in 1939 [6]

Another holocaust, so soon after the first? Another desecration of the soil, of which Anatole France (skeptic in everything else) spoke in 1914 "Be pious, venerate the soil of your country Never take a handful of it without thinking it is sacred"?

Happily for the future of France, there is better news In 1946 there were 835,000 births in 1947, 860,000 in 1948, 864,000, an excess of 358,000 births over deaths If these increases had been merely proportional to the number of births in 1945, they would have been only about 700,000 These figures show with certainty one thing, but they may also point to another, not less important Without doubt they testify to the efficacy of the measures taken, since the liberation, to improve conditions of both prenatal and postnatal care do they also imply renewed hope in the future of the country? If the reproduction rate is to become a replacement rate, people, as Carr-Saunders points out, must be brought deliberately to found families as a contribution to a society in whose political future they have confidence and in whose social ideals they find inspiration [7] It is difficult, in short, not to conclude that the way out of the population tangle for France and for every other industrialized country lies through economic policies which offer security to men and women of such a kind that provision for children does not mean too great a burden on their own material well-being Unless this security is present it is doubtful whether any government policy will effect a radical general change in the rate of reproduction It may well be argued by some that all this represents a cynically materialistic idea, that not thus are families founded, that there are nobler incentives than subsidies And none of the preceding is to be regarded as an endorsement of Sterne's famous introductory sentence to his *Sentimental Journey*—"They order these things better in France "

Since the end of the war the French have been conducting three broad campaigns to replenish their population the encouragement of large families, the fight against disease and alcoholism, the systematic organization of immigration An impressive social security system, including all types of social insurance and medical aid, and covering all persons except employers, from the cradle to the grave, has been put into operation Social security pays for every-

[6] In 1938 the birth rate was 14 6 per 1000, in 1948, 19 6

[7] A M Carr-Saunders, *World Population* (Oxford, 1936), p 310 More specifically, see J J Spengler, *France Faces Depopulation* (Durham, N C, 1938)

thing from the infant's milk to the old person's coffin Maternity benefits are particularly generous, they include complete medical expenses, free delivery and milk, over three months' pay in the case of an employed woman, and a large premium for each child, amounting to from two to three times a worker's monthly wage Moreover, France's working people no longer have any medical worries, social security pays around 80 percent of the cost of doctors, drugs, and hospitals It now pays to have children in France

In point of size France is now the largest state on the purely European continent Her area, 212,000 square miles, is nearly twice as large as Italy's and Poland's, each with 120,000, which in turn are exceeded by Spain, 190,000, Finland, 130,000, and Germany (the four zones) with 123,000

A people so traditionally rooted in the soil as the French do not emigrate [8] They never did emigrate to any great extent even when France may have been considered overpopulated When for centuries France and England were at sword's points in the New World and in India, France remained true to the Colbertian idea of mercantilism A predominantly agricultural country, she yet sent out as intrepid and successful explorers as the great trading nation across the Channel Why? Not for the sake of more land, of which she had plenty, but for the sake of the income from that land The land could be worked by those whom the colonizers found there

More than any other person, the Frenchman has a dual nature A contemporary French poet has remarked that his compatriots are the most open and at the same time the most enigmatic people in the world Their frankness and their lack of hypocrisy make it easy to study them and lead one to believe that one knows them Then suddenly a storm breaks, the Frenchman reacts in a totally unexpected manner, and one perceives a side he has not shown before This dual nature is the product of his native soil and his history working in opposition to each other but both fashioning him simultaneously and unceasingly No people are a more faithful image of their country than the French Observe them closely and you note the same proportion, the same gaiety, the same harmony as in the aspect and products of the land But in each Frenchman is another man whom history has hammered rudely on its forge, repeatedly dealing him heavier blows than the people of any other great European nation

Not only do her people stay at home, but others come to that home Citizenship is much easier to acquire than in the United States The birth rate among the French themselves would hardly—up to now—have reproduced the population But the fertility of those who were born outside the country—largely Poles, Italians, Belgians, who have moved in since 1909 and especially in 1919 and 1920—has come to the rescue

It should be a happy country which keeps its own people and attracts mil-

[8] According to the census of 1940, France was twentieth among the European states which have contributed to the present population of the United States

lions of others France should be a self-contained unit if ever modern conditions allowed such a thing, fortunate or not Look at the map Montesquieu mentioned "diversity" He could not have foreseen the contemporary interpretations of that word, based on the strange interdependence of modern conditions, but among the things he had in mind must have been the geographical diversity, happily not incompatible with that physical unity which the map so quickly reveals France more nearly approaches self-sufficiency than any other country of comparable importance

The key point to be understood when comparing French economic life to that of any other advanced capitalist state is that agriculture even today still plays a role in French economy no less important than that of industry France grows more than enough for her own needs The French people in the years between 1918 and 1939 consumed on an average 88,000,000 quintals of wheat in a year And in a year of good harvest, for instance 1933, no less than 105,000,000 quintals of wheat were grown by French farmers Until rather recently, this situation seemed satisfactory to most French people, blissfully unaware that economic progress and prosperity in the largest country of western Europe was no longer likely to exist in a predominantly agricultural community Canada with a population one-fourth that of France produces much larger quantities of wheat Why? Because Canada has long practiced large-scale farming with mechanized equipment, and France is still mainly a country of small peasant farmers It is a vicious circle France is backward industrially partly because her farmers do not demand modern machinery, and they do not demand it not only because traditionally are they wedded to old-fashioned methods but because practically the industrial resources of the country furnish none better

Socially and economically there was and perhaps still is an unfortunately wide gap between those who got their living from the land and those who may roughly and perhaps incorrectly be classed as capitalists Living conditions were so different! One could perceive as he went around the country how much harder, how unnecessarily harder, the one had to work than the other The American farmer, with his radio, his car, his tractor, his telephone, good roads, electricity, running water, may have to work, in certain parts of the United States, as hard as his opposite number in France, but his many conveniences—absolute luxuries to the French—put him on a plane apart The French farmer was almost fatally handicapped by the very nature of the peasant economy—the separate unplanned cultivation of hundreds of thousands of small strips of land The farmers' "hired hands" had the lowest standard of living of all sections of the French community, their wages were lower than those of the most unskilled workers in other trades [9]

[9] The most scholarly recent study of the French agricultural laborer is by Gaston Roupnel (professor of Burgundian history at the University of Dijon), *Histoire de la Campagne Française* (Paris, 1932)

## *THE FRENCH SPIRIT*

The French spirit, considered traditionally and historically—not politically—is a passion for national unity "Forty million Frenchmen can't be wrong," said a popular song a few years ago Certainly not, if they could only agree about something! Racially, the curious thing about these Frenchmen, in view of their notorious individualism, is that they do have that sense of unity which makes a man consider himself a Frenchman rather than a Norman or a Provençal Temperamentally, historically, the two are poles apart To paraphrase St Paul, "With a great price bought France this freedom," this unity A nation does not achieve it by wishing it It comes at the expense of molding generations of minorities and subject peoples to the popular, the established, design It comes at the expense of obliterating, perhaps callously, generations of interesting cultural achievements, products of small, nonconforming groups It comes at the expense of wars, often unjust, aggressive It comes at the expense of expelling many desirable, courageous elements, such as the Huguenots (Calvinists),[10] or even of "liquidating" many of the greatest examples of French genius, such as, in the Reign of Terror, Mme Roland, Condorcet, Lavoisier, Chénier, or, during the Second Empire, of exiling Victor Hugo and most of the leaders of the Second Republic, or, as a result of the Commune of 1871, murdering in the streets of Paris 33,000 civilians and executing by "legal" process 4000 more [11]

Because it has taken centuries to be formed, the French nation is the most compact, the most solid, perhaps the most durable of nations Physically and morally France has been made, unmade, and remade, a very ancient nation which has seen itself broken into an infinity of fragments, large and small, some of which have even fallen into foreign hands, and while slowly she was reconstituting herself, she has suffered, internally, such moral crises that ten times one thought that once more she was on the point of breaking up It was necessary that the territorial unity of the country should be a reality when ceaselessly the national union seemed in peril Yet thirty-one rulers (up to Louis XV) worked so effectively, so devotedly, that the nation, remade little by little through their care, was one day able to proclaim itself, proudly, and accurately, "one and indivisible"

The people who, gradually coming together, formed the French nation belonged in no wise to a homogeneous race The territory on which the nation developed offered, of course, conditions naturally favorable to unity,

[10] The revocation (1685) of the Edict of Nantes took from France and added, mainly to Germany and England, about 500,000 exiled French subjects Among those who would have been French, had it not been for the revocation by Louis XIV, was Cavour Some of the great French Calvinists of modern times have been Guizot, Constant, Gabriel, Adolphe, and Henri Monod, Doumergue (one-time president of the Third Republic), and, prominent in the Fourth Republic, André Philip and Andre Siegfried

[11] A Zevaes, *Histoire de la III Republique* (Paris, 1947), p 52

but the men who met on that land, coming from the four points of the compass, had no knowledge of each other, were even hostile to each other, since they had been violently jostled around to make place for the successive invasions [12] Their origins are distinct, their aspect diverse, their characters widely different The Fleming from the north, tall, bulky, strongly built, prudent, industrious, slow, appears to have nothing in common with the southerner, short, dark, petulant, keen arguer, confirmed politician [13]

There is no Frenchman who has not in his veins some blood of the three, four, or five "primary races" which according to the anthropologists inhabit France at the present day The only groups who deserve the appellation of a stable race are inbred, long-settled peasants in remote valleys of the Rhone

> More potent far than the presence or absence of blood-relationship is the bond of unity provided by tradition, the sense of common dangers, the sense of great common achievements A thousand years at least of common life, the leadership of the same kings, whether worthy or not, the treasure-house of the same literature, the moulding influence of the same customs and the same laws—especially after the Revolution, all these, and not common descent, have given the French their like-mindedness—even when they are most fiercely at odds with each other—their national individuality Her racial complexity, so intriguing to the traveler and the student, is of profound significance for the future of the country France is an epitome of Europe, of the United States if ever the natural increase of her population should fail to keep pace with economic opportunities, she could draw almost indefinitely from her neighbors without losing her synthetic identity [14]

The incarnation of French resistance in 1870 was the son of an Italian, Kitchener, a young cadet of twenty, fought for France in 1870, so did Garibaldi, a veteran of sixty-three, many a Swiss, a Belgian, a Pole since 1870 has swelled the stream of French greatness, where they have not actually become French citizens, many writers have preferred to use the language, either re-

[12] Curiously enough, the main ethnic components of the French people are exactly the same as those of the English—primitive Celts, Roman conquerors, German invaders But the invaders, coming by land, were many and varied After the Gauls came the Romans Four centuries later Gaul was flooded by migrating barbarians, and the Visigoths, the Burgundians, the Franks took up their abode in the land The Moors were turned back at Tours in 732 In the ninth and tenth centuries the Northmen harried the coasts, penetrated far inland, and finally seized the rich province which bears their name The Greeks founded several cities on the Mediterranean, the British long held southwest France, the Spaniards ruled Franche-Comte

[13] These characterizations, risky for a foreigner to attempt, are those of a famous historian and statesman, Gabriel Hanotaux *La Fleur des Histoires Françaises* (Paris, 1911), p 81 Laval, though not entirely a meridional, seems to fit the description of the southerner, understated

[14] Paraphrased from A L Guerard, *French Civilization in the Nineteenth Century* (New York, 1914), p 35

taining or entirely discarding their own the Italians D'Annunzio and Carco pino (pen name Francis Carco), the Flemings Maeterlinck, Verhaeren, Rodenbach, the Rumanians Stourdza, Vacaresco, Bolinteanu, the Greeks Moreas, Parodi, the Cuban Heredia, the Pole Kostrowitzki (pen name Guillaume Apollinaire), even English and Americans like Oscar Wilde, Mary Robinson, Swinburne, Viele-Griffin, Stuart Merrill, T S Eliot, Julian Green [15]

[15] In 1948 the Prix Rivarol was established for the best work written in the French language by a writer of another nationality, in the spring of 1949 it was awarded for the first time, being divided between a Russian and a Lebanese One hundred works were submitted by representatives of twenty-five countries

# Chapter 15

# The March of Democracy

**Purpose of This Chapter**

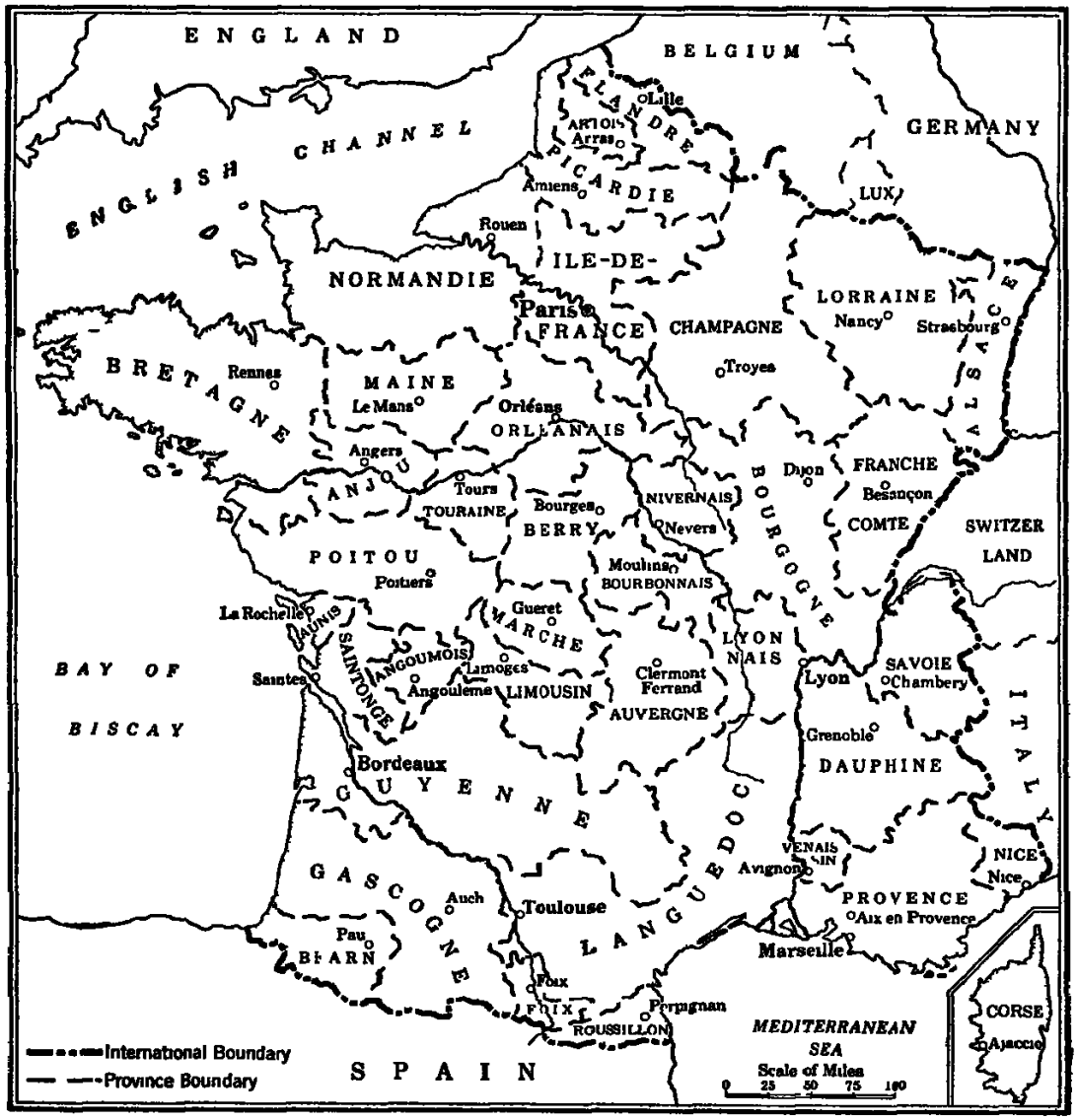
THIS SECTION may seem to some an unduly long historical introduction But in the case of France a historical background is more necessary than for many other countries, because each change of government that will be discussed in this chapter has a distinct causal bearing on its successor, a bearing which is not only historical but sociological in the broadest sense However, only the minimum of history is included, and only such history as will throw light on the main theme not only of this chapter but of most of the entire section—the vicissitudes of democratic progress It is for this reason that, later, are included some episodes in the history of the Third Republic such as the Dreyfus case and the separation of church and state That which has no value for the story of democracy, however interesting, has been excluded Some readers will be helped by the list of constitutions on page 247 and by the Table of Dates in the Appendix

## *THE REVOLUTION*

The hard-won unity that we have been discussing was finally consolidated, though not permanently, by the Revolution The English Revolution has been called "glorious," the French "bloody," the Russian, so close to our memories, by so many epithets that it is hard to choose one Of the English and the French, one was more or less peaceful, the other distinctly violent The true "glory" of the former lies, of course, not in the minimum of violence which was necessary for its success but in the way of escape from violence which the revolution settlement found for future generations of Englishmen It achieved, then and there, its objects—political and religious liberty The rights of men were not so much at stake, they came as a matter of gradual and inevitable evolution as the political institutions established in 1688 became more fully rooted

The crux of the French Revolution was the abolition of feudalism That upset was social rather than political, that is why its work is still incomplete, why in a sense it is still going on Not only did the Declaration of the Rights

of Man sweep away an old society, it created a new one The positive side of its measures—equal taxation, equal opportunity, equal justice, and the drastic reform of civil and ecclesiastical bodies—gave birth to the equal citizenship which became the strength and the glory of modern France The declaration was neither the manifesto of a new nation, like that of 1776, nor a revolution-




French Provinces (about 1789)

ary class program, like the preamble to the Russian constitution of 1918 There is no doubt that it profited by the one and partly inspired the other Such epoch-making statements cannot stand alone To the sophisticated world of today they may seem platitudinous and obvious, 160 years ago there had been no preparation for them in the minds of the common people, to most of whom Voltaire and the other *philosophes* were but names They knew their

grievances, and gave them clear expression in the famous *cahiers*,[1] but those grievances were for the most part petty and local Now the great truths of the declaration were to be published for all to read, they were to include and interest the whole nation and not just a *bailliage* They have, of course, never been superseded, and it is more than probable that since they have in their grandeur stood the test of all the regimes and all the upsets of French politics from that day to this (with the exception of the Vichy interlude) it was considered a work of supererogation to include them in the constitution of the Third Republic Its successor, of 1946, specifically refers to them and, in a sense, brings them up to date by including economic rights

Much of the strength of the Declaration of the Rights of Man derives from the fact that it is a synthesis That the best which had been thought and said on the subject by many Europeans and Americans was fused into one immortal document, in the space of a few days, speaks volumes for the experience, the intellect, the character of the members of the National Assembly The Italian Beccaria, the Englishman Locke, the American Jefferson all were, in a sense, writers of the declaration along with Rousseau, Montesquieu, Helvetius, Holbach, Chastellux But the English and the American democracies, having chronological priority, shed the light of their experience on the gallant but uncertain footsteps of the men of '89

> It is certain that the French Revolution borrowed its principles from America the constitution itself, the principles of the Bill of Rights, the very spirit of democracy But if America lent France ideas and formulas, it was the French Revolution which internationalized the American heritage The French Revolution gave to the American inspirations an accent both French and international The Declaration of the Rights of Man is from a direct American source it is the work of the American era, as LaFayette expressed it, and the *rapporteur* of the committee on the constitution, the Archbishop of Bordeaux, recognized it formally on July 27, 1789 A great French historian has said that the American flag "floated above the edifice built by the Constituent Assembly" [2]

[1] Petitions addressed to the King by the three orders (clergy, nobles, commons) meeting separately in each district (*bailliage*)

[2] B Merkine-Guetzevitch, "Les Institutions Politiques Françaises," in *Esquisse de France* (Montreal, 1946) His ideas have received repeated expression and acceptance The most recent acquiescence is voiced by Halvdan Koht in *The American Spirit in Europe* (Philadelphia, 1949), p 18 "There can be no disagreement about the fact that the French Declaration of Rights shows a decided superiority in clarity of style and thought to the various American declarations But it appears indisputable that the ideas of such a proclamation of the fundamental principles of the French Revolution was borrowed from America Part of the very vocabulary of the French Revolution was American, the French did not forget that America had had national conventions, committees of public safety, and committees of general security When Lafayette was made chief of the Civil Guard of Paris, he hoped that by virtue of his authority he might become the French Washington, leading a national army, and on his suggestion the Guard was re-

Do all these beautiful sentiments of the declaration remain but rhetoric if they are not implemented? Well, men must have a standard to which they can repair, as Washington said, they will not respect laws the reason, the foundation, of which they do not understand The universality of these ideas is best shown by comparing some of the articles of the declaration with those of the Universal Declaration of Human Rights adopted by the United Nations in the fall of 1948 Said the French in 1789 "Art X No one can be disturbed [3] for his opinions, even religious, provided their manifestation does not trouble the public order established by law" "Art XI Free communication of thoughts and opinions is one of the most precious rights of man, accordingly every citizen may speak, write, and print freely, except for answering for the abuse of this liberty in cases determined by law" Says Article XVI of the U N declaration "Everyone has the right to freedom of thought, conscience and religion, this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or in private, to manifest his religion or belief in teaching, practice, worship, and observance" It was the French delegate who pointed out that the commission must logically adopt all the consequences of proclaiming freedom of thought if it ventured to attack the question at all It was generally agreed that that article was the most important of the whole declaration "Art XVII Everyone has the right to freedom of opinion and expression, the right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers" Even the Soviet amendments (which of course were not adopted) to these and many other articles were concerned with matters of detail and not of principle

How many governments will now proceed to make provision by act of law for those ideals so beautifully expressed in the U N declaration? Chapter and verse may be cited to show that it is to the eternal credit of the Third French Republic that one after the other of the "declarations" have actually become law [4] They had, naturally, to wait for a thoroughly republican regime, but it is a virtue rather than a fault if such a tremendous statement of principles is incomplete But while the monarchical and imperial governments of France paid only lip service to it, it became a model for the consti-

named the National Guard" Perhaps the best, certainly the most recent and succinct, discussion of the rights of man is in Georges Lefebvre's *The Coming of the French Revolution* (Princeton, 1947), chap 5, "The Rights of Man and Citizen"

[3] I translate *inquiéte* literally because it does not say *prosecuted* or *punished*, although it may also mean that, I like the understatement of *inquiete*

[4] Eminent French jurists have even contended that the declaration of 1789 not only retains constitutional validity but retains it in so high a degree that any law, or even any constitutional provision, which runs contrary to it may be held to be null and void Cf Esmein and Nézard, *Eléments de Droit Constitutionnel* (Paris, 1928)

tution makers of Switzerland, Belgium, Piedmont, Denmark, and many of the Latin-American republics

"In that night lit up by the illumination of sacrifice," rhapsodizes M Herriot in *Aux Sources de la Liberté*, "I perceive that country of mine as I love her, as free men must love her, such as she is always found in the great hours of her history Liberal nobles like the Vicomte de Noailles or the Duc d'Aiguillon rival in generosity the Bishop of Chartres or the Archbishop of Aix and the members of the Third Estate Brittany, Burgundy, Dauphiné, Provence, give up their states rights Henceforth France is to be, declare the deputies from Lorraine, but one great mother-house In the fire of enthusiasm the national unity is galvanized"

So great was the frenzy for national unity that by 1790 there was, administratively, no more Brittany or Burgundy or Dauphiné, which gave way to some of the eighty-three *départements*, of almost equal size, into which the new France was divided Titles of nobility were of course abolished when the republic came The appellation *citoyen* too often marked a leveling down and not a leveling up, but soon the guillotine was working impartially, democratically decapitation, once a monopoly of noble birth and the only form of execution that bore no stigma of dishonor, was now the right of the humblest citizen Among the approximately 17,000 victims[5] whom the guillotine claimed during the Reign of Terror, "aristocrats" were far outnumbered by clergy and the middle and lower classes Of course most of the nobles had fled the country or the ratio would have been different Were these people spies or conspirators, really enemies of the state? Very seldom Some were food hoarders, whose offense in a war-torn country excited no pity, others were counterfeiters, whose offense excited somewhat more sympathy in a country where inflation was limited only by the printing press But many were simply lukewarm in their exhibition of enthusiasm for a regime where the reign of terror was directed by moralists and inspired by the ideal of a regenerated state It all made no sense in the minds of the realistic bourgeois The danger from external enemies began to lessen a few weeks after the beginning of the Terror (September, 1793), why should terror be the ruling procedure of everyday life? Of course *terreur* is mistranslated by "terror", the Terror of 1793–1794 was not a time when Frenchmen were particularly terrified but when the government used force instead of persuasion

The common sense of the people came, almost too late, to the rescue of the

[5] This is the figure of Donald Greer, *The Incidence of the Terror* (Cambridge, Mass., 1935), p 26 It is larger than the number given by Mathiez and some other defenders of the Terror and much lower than the figures of many nineteenth-century opponents of the Revolution However, Paul Nicolle, in *La Revolution Française* (Paris, 1944), distinguishes a repressive and a preventive terror and implies that the figures of persons condemned should be augmented by those thrown into prison without trial, many of whom died Adding these, he estimates the victims of the Terror as 200,000

original principles of the republic The danger had been very narrowly averted The years of suspicion and fear left a heavy toll of badly battered mentalities, still groping, still perplexed by the lack of inner meaning of it all And some are still puzzled to know if it all was worth while, if there has been any real progress, if the setbacks of 1815, 1851, 1940 have not shown that the French people, frivolous, flighty, forgetful, at heart regard the great Revolution as merely a transient, if very interesting, episode in their history Such skeptics and cynics are distinctly in the minority

A few pages further back we mentioned our conviction that the French Revolution—unlike the English and the American, but like the Russian—is still going on In what way? Ask rather, in what ways, for they are many and varied In the first place, since it was primarily social, concerned with the rights and the dignity of the individual, it can never be said to have ended until those rights have been unquestionably and permanently acquired Which, of course, can never be the case [6] Nevertheless, the struggle goes on, now darkly, now brightly, with a score of those setbacks which almost make us despair of French decency and democracy, but with a greater number of advances leading us to the heights of hope and promise and make us say with Herriot that that is the France which not only he loves but we all love, the France of which you and I are all citizens by inheritance

A great upset of some kind could hardly have been delayed much longer It had had preparation of so many types—intellectual, political, financial, administrative Voltaire and Rousseau and their followers, the short-sightedness of Necker and the treasurers general who succeeded him, the inequality of taxation, the dissolute court life, the combination of both a Louis XVI and a Marie Antoinette on the throne all these and many other well-known elements coming to a head in 1789 are proofs of the fact that France had become conscious that her government did not correspond to her degree of civilization Well, then, if France as a whole was civilized and intelligent, could she not have changed her government peaceably? She tried to do so for a couple of years, but the treason of the King and Queen, plotting with their Austrian brother to set them back on the throne of absolutism, convinced the people that nothing democratic, even constitutional, could be expected of any Bourbon

Yet only six years later they gave themselves freely to a man who sets the pattern for modern dictatorship To compare Napoleon with Louis XVI is

[6] I invite, without commenting on it, your attention to a stimulating idea to be found in an article entitled "Humanistic Education" in the *American Association of University Professors Bulletin*, Autumn, 1948, by F B Millett "In Anglo-Saxon countries, most history finds its meaning in the rise and spread of the democratic ideal, I should like to see someone teach history as having its meaning in the rise and spread of more and more despotic and powerful tyrannical enslavements of man's spirit In the light of the behavior of mankind in the twentieth century the second meaning seems to be as defensible an hypothesis as the first"

as profitless as it is silly, suffice it to remind you that it was the mess which the latter (among many others) had allowed the country to get into that the former, perhaps sincerely, believed he had to take drastic measures to get her out of We shall return to the first Bonaparte and to his enormous influence in every department of French life, but that Revolution which he thought he was ending [7] goes down, curiously enough, deeper into the roots of society than all his rigid crudities and formulas

When the French began to question the authority of their monarch, that was in itself, of course, a revolt It could not stop there The next step was to question the authority of the church, and that has been going on ever since Such a questioning was obviously more serious in France, with a state church and a homogeneously religious population, than in many other countries The Russian revolutionists have even more savagely persecuted the church, for many of the same reasons, but it has survived They are confident that they can permanently rid Russia of religion through the spread and application of science, art, ethics, sociability, social service, and a new faith But when Robespierre tried to substitute the worship of Reason and erected an altar to the Supreme Being the absurdity of it jumped to the eyes, as the French say For two reasons the French church was on trial, and has remained on trial ever since One was its traditional connection with the monarchy, hence with reaction Even such a friend of the monarchical principle as J E C Bodley speaks of the Catholic Church, during the Third Republic, "as having become in its political capacity a vast electoral agency of the monarchical party"

The other reason is the growth of secularism and materialism, which is not peculiar to France No other country, however, contributed to that secularism more than did France in the generation just before the Revolution, and perhaps none has done more in the nineteenth century Yet the eighteenth-century philosophers and encyclopedists stood primarily for the single virtue which makes mankind share in the divine—freedom of mind and of the spirit, self-ordained, self-controlled Friend and foe remember Voltaire for his battle cry *"Ecrasez l'infâme" L'infâme* did mean religion (that is, the ecclesiastical organization of religion) but the religion which prompted the tortures of the Inquisition, above all the spirit which was the natural enemy of learning and progress *L'infâme* cannot be translated by any single word, but if it could be, the word would be intolerance To Voltaire the phrase became what *Carthago delenda est* was to Cato Gambetta to some extent

[7] Had there been no Napoleon to consolidate the Revolution, it must have found some other (probably some purely military man, like Moreau) to play his role However, Moreau and the other possible candidates for the liquidation of the Revolution—Hoche and Joubert—obviously lacked Napoleon's military genius, as well as his administrative, renewed chaos would have resulted from their failure, and the Bourbons would have returned

modernized the phrase when he, too, a hundred years later made something of a nuisance of himself by reiterating "*Le cléricalisme, voilà l'ennemi*" Gambetta was no churchman, but whatever his private sentiments he was too good a politician to acknowledge himself a militant atheist To him *cléricalisme* meant nothing necessarily antispiritual, simply the attempt by the hierarchy to influence political action [8]

But revolt against authority becomes anarchy if it stops there What was to take the place of the control formerly exercised by church and throne? Firstly, the doctrine and practice of national sovereignty This is not necessarily a concomitant of republicanism, it can be true of limited or constitutional monarchy, and that has actually been the case for many years in England, the Low Countries, and the Scandinavian monarchies The main point is that the body of citizens chooses, without let or hindrance, to maintain or to unseat its own government The people are even free to choose a dictatorship, though this is of course extremely unusual and patently difficult The dictatorship which they *choose* really becomes one only when its head becomes drunk with power, when he is "chosen" he cannot pose as a dictator, he will admit that strong measures are required to do away with the corruption caused by the preceding regime, but when the corrections have been made, he will of course step aside and allow the democratic process characteristic of the intelligence of his people to resume its work Whether the French people knew exactly what they were letting themselves in for when they voted "yes" to Napoleon in 1799 is doubtful, it is not doubtful that they were terribly tired of the corruption and extravagance of the Directory, and to them the question became Do you, or do you not, want an efficient government?

## *NAPOLEON EXEC'UTOR OR EX'ECUTOR?*

Revolutionary France did not come to dictatorship at one bound, nor did it come willingly Whenever the cry of dictatorship was raised against a revolutionist, it led to his downfall, although he had managed in most cases to do a tremendous amount of mischief From Mirabeau, Marat, Danton to the "triumvirate" of Robespierre, Couthon, St Just, the steadily worsening situation justified respectable politicians like Carnot in saying that all was not well in a republic where the government depended on a single man, and justified a group of much less respectable intriguers like Barras, Tallien, Fouché in organizing secret opposition To judge of their motives, whether they were patriotic or selfish, opens up a vast vista of psychological uncertainties difficult, however fascinating, for the mere historian to penetrate Napoleon's arrival to power was not due primarily (though partly) to the people's weariness of social and political upheavals and their desire for order and efficiency His task was the consolidation of the newly won rights and in-

[8] See the discussion of Church and State in this book, pp 281 ff

terests of the middle classes, their protection against the return of the old order and against the threat of extremist excesses His dictatorship ended, and at the same time sanctioned and consummated, the Revolution He was both its ex'ecutor and its exec'utor His grandiose, self-imposed task was not confined to France, which was only his adopted and not his native land He espoused her because she was the country of opportunity, of the Revolution, which though French in origin had from the beginning a universal scope and appeal

However, no mere adventurer,[9] no mere opportunist, could have done for France those things, good or bad, which have endured for a hundred and fifty years We are not passing moral judgment, hard as it is to be objective when anything Napoleonic is under review Professor A L Guérard will not agree that a Napoleon was necessary to end the Revolution In his devastating book *Reflections on the Napoleonic Legend*, which all idolaters of the Bonapartes should read, he is surprisingly kind to the Bourbons He assumes that the overthrow of the Directory was unavoidable, but examines the various conditions under which it might have happened, coming to the belief that a civilian regime, under such clever rogues as Talleyrand and Sieyès, would have been possible (Without internecine strife?) "Europe would have been less suspicious of a civilian government than of a military dictator peace might have been more durable No doubt there is little in Sieyès and his crew to arouse our enthusiasm France would have known, in 1799, the blessings and the tedium of a liberal, peace-loving, bourgeois regime, such as she was to enjoy—with a yawn—from 1830 to 1848, and again from 1914 on" But granting, for the sake of the argument, that such a regime would have been a failure and would have only paved the way for the return of the legitimate king In that, Mr Guérard, good republican as he is, sees no great harm, since, "narrow and shallow as the Bourbons were, they would soon have accepted the chief conquests of the Revolution without a regret" Louis XVIII could have returned peaceably only as the result of an agreement with a large and influential group, Mr Guerard apparently believes that he would have been wise enough to have made such an agreement All of which stays in the realm of hypothesis, all we know is that when finally the Bourbons did return they lasted, through their incredible stupidities, for fifteen years

Would Napoleon have lasted had there been no Waterloo? But there must have been a Waterloo since there was a Napoleon And in that fact lies nearly the whole history of France from 1800 to 1815 Beware of the historian who attempts to define Napoleon! Beware, especially, of glittering formulas,

[9] Although Alfred Cobban says "Only an adventurer could have risen to fame as Napoleon did, and he remained an adventurer until the day when the *Bellerophon* carried him to an island where there was no room for more adventures" *Dictatorship* (London, 1939), p 93

like Taine's smug description of him as an Italian bandit [10] No man, certainly not Napoleon, is a theorem, he is a bewildering complex of aspirations, most of them frustrated The alleged "will" of a hero is a resultant which baffles analysis Neither is there any recognizable formula for the kind of empire which he set up, it was *sui generis*, certainly the first modern dictatorship, tawdrily and feebly followed by Napoleon III and the twentieth-century modernizers and imitators Reversing a well-known dictum, it might be said that the empire should be taken tragically but not seriously Metternich, Talleyrand, even Napoleon's mother, were all in agreement It could not last ("*Pourvu que cela dure*," said Madame Mère, as she thriftily thought of the rainy days ahead ) Through victories, treaties, institutions, coronation, marriage, birth of an heir, Napoleon strove to anchor his pageantry into the solid earth ever in vain Nemesis was always just one battle ahead of him The empire was a dream, not a fact, it became a glorious fact posthumously, in the realm of dreams

He himself must have known it, especially from 1812 on On November 6 of that year, as he began his journey back from Moscow, he heard of the quixotic attempt of a republican general, Malet, to overthrow the government at Paris When asked who were his accomplices, Malet answered the judges "You yourself, and all France—had I succeeded " No one seriously thought that if Napoleon died the King of Rome would succeed, or Marie Louise reign as regent Yet that was what he lived and fought for, and kept Europe ablaze The vanity of all the precautions taken to insure the permanence of the system finally came home to him "The principal advantage of the monarchy," he said bitterly, "is that our fathers cried in the same breath 'The king is dead, long live the king ' "

Other Frenchmen, as far as concerns the material development of humanity, will of course occupy a greater place in history Ampère, Pasteur, Curie, Charcot, Berthelot, Claude Bernard will cause the Napoleonic era to become but a brief, though tragic, episode in the story of the real progress of mankind Yet so keen an observer of French institutions as Bodley could say [11] that this adventurer "displayed the most colossal gifts of government and organization ever possessed by a human being The soldier of fortune, a stranger unversed in civil life, succeeded where philosophers, lawyers, and politicians had failed, and saved the great movement, which had swept away the old monarchy and the ancient régime, from dissolving the French nation in anarchy "

Here we come to the crux, as far as it can be expressed in a word or two,

[10] Hippolyte Taine (1828-1893), philosopher, historian, critic, was the author of *Origins of Contemporary France*

[11] J E C Bodley, *France* (New York, 1898), vol 1, p 109 This is a remarkable book, still readable, still suggestive and stimulating Its only fault is its slightly antirepublican bias

of the course of modern French history How much does modern France really owe to Napoleon, and of that, how much is good? "Good" is not a historical word, we must qualify it good, we mean, for the French people Even with that reservation, who are we, foreigners, to judge? All we can safely do is to study the civilian results of the Napoleonic regime, and to agree that this and that must have suited the French temperament because it lasted, despite many other governments, for anywhere from a hundred to a hundred and fifty years

Taine, in *Le Régime Moderne*, is quite categorical Purely and simply, "the work of Napoleon which has survived him is modern France" In so far as his civil achievements have been ended, it is not inaccurate to say that this has happened because of drastically changed conditions which he could not have been expected to foresee For instance, the concordat between church and state would probably be still regulating their relations if the church had been able and willing to get along with a democratic state, its relations with the Second Empire were as they had been with the First We have already seen how the codes of law set forth by Napoleon have profoundly affected, and still affect, every department of French life, even the growth of population The Legion of Honor has on the whole (despite inevitable favoritism in awarding it) served a useful republican purpose it has been democratized and made less military, but its primary objective remains the same, to reward those who serve the state, and whether the tricolor or the *fleur de lis* waves over the palace of the Legion of Honor, its broad basis is loyalty to the French spirit rather than to the government of the moment

But that with which we are mainly concerned here is the continuity of government, which means the Napoleonic fabric of centralization That has survived all the vicissitudes of a hundred and fifty years, and if it were demolished or even substantially changed, the process would involve the downfall of nearly every institution in France A glance at the constitution of 1946 will show but few autonomous institutions They do not suit the French The proofs? Firstly, the obvious fact that each changing regime has retained the centralizing influences of the First Empire Secondly, as Bodley expresses it, "the scant interest taken by French citizens in the important local governing bodies which they possess"—which is a bit odd when one considers the strong self-contained community sense generally characteristic of a small town or agricultural temperament it is accompanied by ingrained habits of conservatism Thirdly, a paternalistic, bureaucratic organization gives France, in theory at least, internal tranquillity where the central government rather than petty local politicians can create an atmosphere favorable to artistic and business and professional life Here, again, a caveat may be entered, to discuss which takes us into the realm of psychology rather than political science Many observers of French life have noted and been puzzled by the Frenchman's acceptance of bureaucracy which nevertheless is combined with the

personal and intellectual sense of freedom that lies so deep at the heart of the average Frenchman, be he artist, writer, teacher, or artisan or workman

Perhaps the most satisfactory answer to that riddle lies in one word—tranquillity Only if one feels socially tranquil and secure will one be able to carry on those experiments in art, literature, music, philosophy, science which, daring and even fantastic as some of them may seem to you and to me, nevertheless even today prove that the ferment of ideas in France is never circumscribed by temporary military or political vicissitudes

## *AFTER WATERLOO*

Only twice, strictly speaking, have revolutions in France been caused by the harsh and stupid autocracy of the government Louis XVIII died without children in 1824, and his brother succeeded him as Charles X What had become of poor little Louis XVII (supposed to have died in prison in 1795) did not, of course, trouble his uncles, to whose obvious interest it was to believe him dead It still intrigues historians[12] since it is by all odds the greatest mystery in all modern history, but apart from its detective story aspect, its interest for students of France lies in the possibility if not the probability that from what is known of the little boy's character, young as he was when he disappeared from history and entered conjecture, his reign would have been liberal and constructive

From the point of view of the ideal of the Revolution, both reigns of the Bourbon restoration were periods of reaction, the first somewhat less than the second The dominant philosophy and the dominant tendency of the fifteen years reverted to the Middle Ages The monarchy and the church were the two sides of an absolutism based on revelation, and in the strictness of logic, political liberty was as incompatible with the one as liberty of thought with the other The last of the Bourbons was not cruel, merely stupid, but the stupidity that he showed was as bad as a crime, and the result has been to make impossible, ever after, the continuance of the dynasty

By 1830 the people were not quite ready for a republic, though sentiment for one was growing, but they were ready for a liberal constitutional monarchy It was a compromise, and like most compromises rested upon an insecure base It never submitted to the vote of the country as a whole, yet was insistent, and rightly so, upon at least one distinct break with the Bourbon past The head of the house of Orléans, Louis Philippe, a cousin of the last Bourbon, obviously could not call himself king by the grace of God if by that grace was meant, as it always did mean, divine right So he had the shrewdness, not wanting in his early days, to call himself "King of the

[12] Since 1923 no fewer than ten books have been published which have "solved" the mystery, the most recent and interesting of which are Paul Deville, *A la Recherche de Louis XVII* (Paris, 1946), and Alain Decaux, *Louis XVII Retrouvé* (in the person of Naundorff, by far the most popular candidate) (Paris, 1947)

French," just as Napoleon, for even more obvious reasons, was always Emperor of the French and not of France Most kings of that time as they got older lost much of whatever liberalism they may have had when they came to power Lethargy, force of habit, love of authority all combined to make a king over sixty years old a poor risk as the head of a theoretically constitutional state When that became apparent the French pinned their hopes on Louis Philippe's heir, just as the Austrians put theirs on Archduke Rudolph and the Russians during the reign of Alexander III on the future Nicholas II and the Belgians on the future Albert I A serious blow was dealt to the Orléans dynasty when the heir apparent, the Duc d'Orléans, was killed in an accident in 1842 This remarkable prince happened to be a thoroughgoing liberal and a "true son of the Revolution", [13] he left a son who in his manhood displayed the same qualities As Comte de Paris this son became "pretender" on the death in 1883 of his cousin the Comte de Chambord, head of the house of Bourbon [14]

Louis Philippe preferred to reign as a "democratic" king than not to reign at all, but was increasingly apt to forget, as he got older, that since he had in effect been elected by the people he could be dismissed by them whenever it might suit their convenience One should require a better reason for a revolution than boredom and impatience, [15] a succeeding government (the Second Republic) founded on no better basis was hardly likely to do a very good job (Nor did it do a very good or a very permanent job—but for reasons hardly its fault, as we shall see ) But the French must not be bored, they never have been without doing something about it The whole course of their history, especially since the Revolution, shows this The Third Republic may have been rather generally an affair of petty politicians, but other people provided plenty of excitement Louis Philippe's Orléans monarchy it would be exaggeration to call inglorious or humiliating, but surely it was uninteresting, unconstructive, diverted only by the conquest of Algeria, which occupied its energies for the whole period of the reign Enlightened also, to be sure, by a picturesque incident or two which only gave further proofs of the stupidity of the monarch How else are we to characterize Louis Philippe

[13] Not unnatural, when it is recalled that his grandfather, "Philippe Egalité," the Duc d'Orleans of that day, cousin of Louis XVI, as a member of the Constituent Assembly voted for the King's death Those who voted for the death penalty were in a majority of one, so it might be loosely said that Louis owed his death to his cousin

[14] The Comte de Chambord, "Henri V," was the grandson of Charles X He was succeeded as pretender by his cousin the Comte de Paris, who died in 1894 The head of the house then became Jean, Duc de Guise (1874-1940), who in turn was "succeeded" by his son Henri, Comte de Paris, born in 1908 He, however, seems to have recently renounced his rights, so the "house of France" has officially ended its existence of over 400 years

[15] This should not be given too much importance, quite as important was the progress of political liberalism, liberal catholicism, and socialistic utopianism

when he presides over the return to France from St Helena of the body of Napoleon, thereby imagining that he would vicariously derive profit and prestige? For centuries the tradition of France had been a glorious foreign policy Even today, with inadequate means, she cannot bear the thought of being relegated to the rank of second-rate power By the forties only the glory of the First Empire had remained in French minds, its defeats and sufferings and even the diminishment of French territory—these remained facts but facts decidedly secondary to the pleasanter and titillating memories which mean more to most people, certainly to the French

Louis Philippe remembered 1792 and knew that his throne was not strong enough to survive war What did not occur to him was that it might not be strong enough to survive peace either And so the "revolution of contempt" The refusal of Guizot (Prime Minister from 1840 to 1848) to give the country real democracy—resisting even the most moderate demand for the extension of the suffrage—was so patently incompatible with the high ideals of the charter (constitution) that it was bound to lead to disaster

## *ANOTHER REPUBLIC*

But now we must compare more constructively the elements of the republicanism of 1848 with those of 1870 and, perhaps, of 1946 Otherwise, the great upset of 1848 will seem to be an entirely dynastic affair, which it would be inaccurate to call it The last two republics—those of 1848 and 1870—have this in common they were all attempts of a small minority to force their creed upon France The result in the first two cases was anarchy, passing by reaction into despotism, in the third case, the result was, in the early years at least, acceptance only because there was no alternative—everything else had been tried But in the first two cases the republic did not live long enough to show what it could do if it were given a real chance

There is perhaps a more significant comparison to be made between the Second and the Fourth Republics Certainly the latter, in organizing all sorts of celebrations to mark in 1948 the centennial of its predecessor, seemed to think that by exalting the Second Republic the Fourth was exalting itself The analogy is depressingly close In the "June days" the Second Republic defeated the social movement of the working classes as the Fourth Republic had so far defeated the Communists (though not with the same bloodshed) The efforts exhausted the radicalism of the Second Republic and it fell before a half-socialist, half-military adventurer, Louis Napoleon, the Fourth Republic at its beginning felt at its back the breath of another "man on horseback," Charles De Gaulle

The International Congress of Historians which met to mark the centenary of the revolutions of 1848 raised on more than one occasion what one might call "the English question" Why, they asked, was there no revolution in England in 1848? What was the secret which enabled the English governing

classes to take the workers into partnership without violence and without destroying individual freedom? The answer probably is, in a word, that when revolution threatened, the middle class was admitted to power "A Frenchman," said Herriot, "does with difficulty things that are easy to do, but difficult things he does easily" The English don't like change, the French do—sometimes, it would seem, merely for the sake of change However, *plus ça change, plus ça reste la même chose* The growth of socialism, of course, took different forms in the two countries In England the word first appeared in 1827, but was used only to denote followers of Robert Owen It did not get into the French language until 1838

The forms which it took illustrate the national temperament of each country The English adopted, successively, practical means of action, workmen's unions (*syndicats* in French), cooperative societies, laws for workers' protection, the eight-hour day, the general strike, they proclaimed the struggle of the working classes against the upper class and demanded universal suffrage, the sole reform which would oblige Parliament to concern itself with the workers The French, true to type, furnished the critical analysis of society, the theory of the connection between capital and labor, the technique of propaganda (emancipation of the proletariat, organization of labor, the right to work, dictatorship of the proletariat), the names *anarchism, syndicalism,* and *communism,* the red flag The creation of the elementary or introductory ideas of socialism came to a head in 1848 It was a German Jew, Karl Marx, a refugee first in France and then in England, who brought French theories and English practice together in a doctrinal system with scientific basis

Marx built upon the less violent ideas of Owen and Saint-Simon, and of Proudhon, who today is perhaps the most popular of the early French socialists Comte de Saint-Simon may be called the intellectual father of French socialism [16] The Marxists of today would easily recognize him, and should pay tribute to him, for it was he (himself a noble) who advocated the suppression of hereditary, though not all private, property and the maintenance of the state as owner of the common wealth and distributor of the means of labor according to needs and capacities He died as early as 1825, leaving a small but influential group of disciples—Fourier, Cabet, and, most important, Blanc—who hoped to reform society without having to resort to revolution But they were too patient for those who had become attracted by the dynamic of Marx, promising speedier and more drastic action For these,

[16] Proudhon is harder to understand than Saint-Simon Many fascist writers have hailed him as the intellectual forerunner of fascism Some claim him as a National Socialist in that he upheld the principle of private enterprise and was at the same time opposed to profit and interest For the most recent treatment of Proudhon see the chapter on him in J S Schapiro, *Liberalism and the Challenge of Fascism* (New York, 1949) For a clear, brief discussion of the French Utopian Socialists see R E Westmeyer, *Modern Economic and Social Systems* (New York, 1940), chap 3

social revolution meant also political revolution They took the name of Communists, which had been first used during the Great Revolution by Babeuf and his followers, and it was for this group that Marx drew up the most significant social document penned since the Declaration of the Rights of Man—the *Communist Manifesto* of 1848

Although Marxian ideas had not, of course, gained much circulation by 1848, nevertheless the publication of the *Manifesto*, preceding by a short time the February revolution in Paris, gave it much of what theoretical direction it had This direction was vacillating, immature, inexperienced Its preparation had been academic, in terms chiefly of how to get rid of the monarchy and only secondarily of what was to replace it Street fighting broke out on February 23, and unexpectedly, tired old Louis Philippe, losing his nerve, abdicated and went to England From England came Louis Bonaparte—the son of Napoleon's younger brother Louis, ex-king of Holland, and Hortense, Josephine's daughter—a man of forty, at once mystic and Lothario, humanitarian and businessman, looking like an opium eater and speaking French like a foreigner Finding the moment unpropitious, but having adroitly advertised his existence and his name and his availability, he withdrew to England to await his call

This call he was shrewd enough to believe would speedily come, if only because of the ineptness of the liberals The revolution had gotten out of hand The capital was in a state of delirious uncertainty, vast schemes of social reform being demanded by some, while others with equal insistence called for an instant war against the tyrants of Europe, it was 1792 all over again, although Victoria and Frederick William of Prussia and Ferdinand of Austria could hardly by the most obstinate socialists be called very tyrannical With all his humanitarian instincts, Louis Napoleon could not have been unhappy as he watched the operation of the "national workshops," Louis Blanc's utopian dream They would, of course, if given time, have overcome the faults of their hasty organization, but there was no time, in those hectic days of constant perplexity and violence, for constructive, consecutive thought A few people had been very prosperous during the reign of Louis Philippe and they, together with the government, never cared to come to grips with the central economic problem—the alleviation of want and misery To attain this end Louis Blanc proposed the establishment of what he called social, or national, workshops *(ateliers nationaux)*—a cooperative undertaking carried on by a group of workers in a given trade with the workers receiving the profits All the shops in a given industry would be members of a central organization, and all industries would be united into a grand federation At first the government would have to provide the necessary capital, and the government would also have to assume control during the introductory period In other words, the government, which got its support from the capitalist and the bourgeois, was expected to underwrite a scheme for doing

away with the capitalist class [17] One of Blanc's worst enemies was appointed to manage the project, and he succeeded so well in attaining the end in view that in a short time the shops were abandoned nothing took their place except unemployment and frustration The result was a more formidable insurrection than the taking of the Bastille General Cavaignac was made dictator and in the "June days" of 1848 suppressed the rising with the ruthless energy of a soldier trained in Algerian campaigns The military casualties were 1600 killed or wounded, the civilian about 3000

The June days are a very direct prelude not only to the few remaining years of the republic but to its successor Liberalism was killed, not to rise again until the mistakes of the Second Empire encouraged its resurrection in the sixties Liberalism was supposed to have been tried and found wanting Its leaders were spurned as dangerous, certainly impractical In the presidential election of December, 1848, Lamartine, the favorite poet, historian, and orator of France, the inspired prophet of republican idealism, polled 17,000 votes out of an electorate of 8,000,000 "The church and a strong government" was the cry of the frightened bourgeoisie

In recent years it has become the custom to glorify the revolution of '48 It must be for its intentions[18] and not for its accomplishments And the motives of some of those who glorify it may be open to suspicion Obviously its failure—for whatever reasons—gives the radicals and the "fellow travelers" a chance to say, what cannot be disproved, that its success was impossible because of the superior strength of the reactionary elements combining against it the church, the army, the bourgeois Chamber (in which the republicans were only in the proportion of one to eight), the general suspicion of its leaders' motives The very name of republic remained tied to the memory of the guillotine and of the *assignats* (paper money) of 1790, the First Republic did not last, and for the same reasons the Second could not

It was to be the same in 1871, they had given themselves a republic before they were ready for it Only the Third Republic happily had a few peaceful years to get on its feet, the Second was slain even while preserving the outward forms of republicanism The first constitution of the Second Republic, which carried in it the germ of its own demise, is worth study not only for its contemporary interest but for its influence on succeeding theories of government Universal suffrage did not, oddly enough, elect to the Constituent Assembly a majority of men of the people Those elected were mostly bourgeois, businessmen—technically perhaps republicans, supporters of a

[17] Blanc's national workshops have a faint similarity to some of the elements of the Fascist corporative setup, where capitalism had no political or constitutional right of its own, it had not even that justification for its existence which comes out of the fulfillment of social functions or the assumption of responsibilities and risks

[18] George Sand represented both the atmosphere and the style of '48 when she said "The republic is a baptism, and to receive it worthily one must be in a state of grace"

democratic but hardly of a social republic About a third of the Assembly consisted of legitimists and Orleanists, forming a combined opposition under the name of "party of order "

It was under the vicious spell of the June days that the constitution was drawn up Out of respect for the doctrine of the separation of powers, it conferred the legislative power upon a single assembly, the executive power upon a President, both elected by the people Had the Assembly accepted the proposal that it and not the people should elect the President (as was adopted in 1875 and again in 1946), Louis Napoleon would have had no chance against General Cavaignac, but Lamartine, although a bitter opponent of Louis Napoleon, insisted that popular election was the only method compatible with republican philosophy, and thereby secured the triumph of Bonapartism If a Bonaparte was to be returned to power, it was all the more important that one of the main defects of the constitution should be corrected But that document did not define the relations between legislative and executive, despite the supposed necessity of the French mind to prescribe well in advance the terms of any assignment Since the President would control the centralized administration and the armed forces of the country, he would during his four years of office be in a position of commanding eminence It was a situation so anomalous that it would have been comical had it not surely led to tragedy Hardly anyone really liked the constitution, nearly everyone wanted to revise it—the President, that he might prolong his term of office, the combined monarchists, that they might enthrone their respective candidates, the social democrats, that they might extend the popular principle

Obviously a revision in favor of any of these groups would work so to the disadvantage of the other two as to bring on violence Then too, a peaceful revision was hardly likely since a three-fourths majority was necessary Napoleon I took his empire in two bites—the constitution of 1799 (making him First Consul for ten years) and the life consulate of 1802, followed by the proclamation of the empire in 1804, the nephew got his empire in only one coup d'état—that of December 2, 1851 (the anniversary of his uncle's coronation and of the Battle of Austerlitz), which made him President for ten years, with even greater powers, the decision of the following autumn to proclaim the empire followed logically after a campaign of adroit preparation Each Emperor was very careful about popular ratification, each was "Emperor of the French "

## *AND ANOTHER EMPIRE*

The program of the Second Empire was not the improvisation of a vulgar adventurer, but the result of long reflection on the Napoleonic tradition and the best means of adapting it to the so-called needs of France Hitler plotted *Mein Kampf* (both the book and the reality) partly from the reflection and study of his prison days, Napoleon III's enforced leisure lasted longer and

produced more beneficial, though hardly more epoch-making, works He was in prison at the chateau of Ham in Northern France from 1840 to 1846 as a result of his fantastic attempt at Strasbourg to seize power, and it became his boast in later years that he had "graduated at the University of Ham", certainly the diploma of that "faculty" was more laboriously earned than the more impressive academic distinctions with which royal persons are frequently decorated He revised (with obvious difficulties) his *Artillery Manual*, he wrote a substantial work on an *Analysis of the Question of Beet Sugar*, on the *Extinction of Pauperism*, to be added to a somewhat more significant book written in 1839, *On Napoleonic Ideas*, meant to reassure the French people that both he and his uncle really were socially minded The Napoleonic idea was "an idea social, industrial, commercial, humanitarian Under the existing political situation the emperor was able to organize France only provisionally, but all his intentions enclosed a germ of improvement which he would have developed when peace came" The bright prospect closed at Waterloo, but it might reopen under a second empire

France was used to coups d'état and street fighting, there was no legal way of giving the country a strong regime Command of the army paid off The streets were full of soldiers with a fervid determination to save society, the only difficulty was to find anyone from whom to save it Very cleverly a straw man was invented Napoleon had allowed the conservative majority to take measures for curtailing universal suffrage, the great achievement of 1848, when they had thus committed themselves, he opposed them and stood as the defender of the nation's right He dissolved the Assembly, restored universal suffrage, and appealed to the people as to the supreme arbitrator It was all done with little bloodshed—just how much has long been a matter of argument, ranging all the way down from 1200 killed and wounded A police report dated December 15 was found among the Flahaut papers[19] and gives the civilian casualties as 215 killed and 119 wounded That, though bad enough, was not all Twenty-seven thousand were arrested, 240 were sent to a living death in Cayenne, 10,000 were transported to Algeria, 10,000 were exiled [20] The republicans, continually launching anathemas against the "men of the second of December," forgot that they had given these men an example of measures as rigorous after the June days The bitterness of French politics is not to be wondered at, did the recollection of these cruelties and those of 1871[21] affect the relatively mild decisions of the courts which tried the collaborationists in 1945-1948? [22]

[19] Earl of Kerry (ed), *The Secret of the Coup d'Etat* (London, 1924), p 22

[20] Adrien Dansette, *Deuxieme Republique, Second Empire* (Paris, 1942), p 96

[21] See supra, p 218

[22] By the beginning of 1949 about 150,000 accusations of collaborationism had been heard, of which 45,000 were dismissed without trial There were 7000 condemnations to death, but only 791 were actually executed, the other sentences being commuted to life

"For a long time, society has resembled a pyramid turned upside down and resting on its tip, I have replaced it on its base," said the Prince-President, certainly authority now succeeded liberty, dictatorship followed parliamentarianism The new regime did not have to look far for its model Said the argumentative and curiously worded preamble of the constitution "Since France has been proceeding for fifty years only by virtue of the administrative, military, judicial, religious, financial organization of the Consulate, why should we not also adopt the political institutions of the Consulate?" Why not, especially since the consulate was a prelude to the empire? The new institutions were almost entirely modeled on those of the year VIII [23] The President, named for ten years, commanded the armed forces, declared war, signed treaties, possessed the right to initiate laws, appointed and dismissed his ministers, who were responsible only to him The Assembly, now called the *Corps législatif*, saw its powers diminished in proportion as those of the President were increased, it could only accept or reject projects prepared by the ministry To be sure, there was a Senate, but it was mostly composed of cardinals, marshals, generals, they were the guardians of the constitution and were not likely to disturb the *status quo*

It could be only an interregnum The next few months Napoleon used for propaganda In October, at Bordeaux, the Prince-President decided that "France seemed to want to return to the empire" To calm the apprehensions which history justified, he hastened to add a historic phrase "The empire is peace" [24] In November a second plebiscite ratified the establishment of the imperial dignity by 7,800,000 against 280,000

The first four years of the empire were marked by steady material progress Aided by the intelligent, far-sighted resourcefulness of the Emperor the first fruits of the industrial revolution were affecting the life of the people Taine was no Bonapartist, and when not blinded by political passion he was a keen observer, after extensive journeys through the length and breadth of the land his verdict was "One must confess there is in this country a sudden expansion of public prosperity, similar to that of the Renaissance or of the time of Colbert The emperor understands France and his century better than any of his predecessors" [25]

imprisonment or to some lighter sentence Other penalties were distributed as follows hard labor for life, 2700, hard labor for less than life, 10,400, various terms of imprisonment, 26,000 Statement by Robert Lecourt, Minister of Justice, in *France-Amerique*, March 6, 1949

[23] The "year I" began on the day of the proclamation of the republic, September 22, 1792 The revolutionary calendar was officially discontinued with the year XIV, 1804-1805, but had been gradually discarded by the people before then

[24] And fought wars against Russia (1856), Austria (1859), China (1860), Annam, Cochin-China, and Cambodia (1858-1863), Mexico (1862-1867)

[25] For a penetrating short study of Napoleon's domestic policies see J S Schapiro, "Heralds of Fascism Louis Napoleon," in *Liberalism and the Challenge of Fascism* (New York, 1949)

Penetrating and accurate as that remark is, it remains true that the Emperor himself was almost impossible to understand For twenty years he seemed to drift, since being the fatalist he was it seemed useless to strive against the stream, a sphinx, since he answered no questions, not knowing their answers, an enigma to the world, since his own intentions were an enigma to himself The central question is this was he fundamentally and permanently despotic, or was it always part of his design to relax the tension of despotism when his power was thoroughly established, and by degrees to associate the representatives of the people in the task of government? And if the latter is correct, was he prevented from really doing so by his own procrastination, accentuated, from about 1860 on, by ill health, or by the distrust of his people? The material welfare of his people was close to his heart, but there is no evidence that their progress toward a liberal democracy received any genuine and disinterested impetus from him

The superficial evidence may seem against this view In 1860 the Senate and the legislative body were permitted to debate an annual address in response to the speech from the throne, and, though responsible government was still withheld, it was at least intended that the chambers should know what the government was doing Certain ministers, following the traditional English custom (but not, alas, any American) were charged with defending the measures of the government in the legislature Parliamentary debates were published Other concessions to parliamentary procedure followed, until in 1867 the right of questioning ministers was established, in 1868 many of the restrictions on the press were removed But it was curious that the empire did not regain its original popularity Both its social and its military bases were obviously inadequate The liberation of the press was a boomerang, enabling clever and unscrupulous journalists like Henri Rochefort to display, this time legally, impudence and brilliance The Emperor's cousin assassinated a newspaper reporter Léon Gambetta threw a wild defiance at the crime of December in the course of a political trial and became overnight the popular hero of Paris Victor Hugo was far more bitter and effective, as an exile, in his anti-Bonapartism than he could have been in Paris [26]

Financially prosperous as the empire was, its frivolity, its planlessness, its fanatical devotion to the temporal power of the papacy, its strange foreign policy—strengthening in the name of nationalism two neighbors, the Germans and Italians, who later, thanks to that French help, would become enemies or rivals—all these played into the hands of the democrats, who interpreted the "reforms" as forced and not genuine In desperation the government made its last move toward the people In the spring of 1870 the Emperor proposed to establish a really responsible ministry subject to impeachment, and to give to both branches of the legislature greater power over finance and policy Cleverly these proposals were laid before the people, and when an over-

[26] *Les Châtiments, Napoleon-le-Petit, Histoire d'un Crime,* etc.

whelming majority was returned in favor of the government, the Emperor interpreted the result, by a pretty obvious process of wishful thinking, to mean enthusiasm not for the liberal reforms but for the regime The peasants and the small towns carried the day for Napoleon Some of those who voted yes did so out of hatred for the autocracy which he proposed to discard, others because fear of revolution outbalanced disaffection to the empire, still others, in hopes that the blasts of freedom might bring the imperial fabric to the ground Would the liberal empire have lasted if there had not been military defeat only four months later? H A L Fisher puts up an interesting argument in favor Says he

> If man were a creature of reason, if names were not as potent as things, if bloodshed had no power to create or rancor to prolong the spirit of political partisanship, the republicans might in time have been brought to accept the Liberal Empire Those who regret its disappearance believe that it would have rallied at least the larger and more moderate section of the party, and would in the end have healed the social wounds which had been kept open by ninety years of political unrest They see that impassable gulf which now divides the royalists from the republic [27] and argue that the Liberal Empire would have offered political shelter to royalists and republicans alike Reft of its autocratic significance, Bonapartism would have come to represent the great central party of common sense and prudent compromise It would have retained the loyalty of the Church while keeping at arm's length the pretensions of the Vatican, it would have provided careers for turbulent ambition, and destroyed the revolution by the gradual process of absorbing it Time alone was wanting, as to the uncle, so to the nephew, but Time, acting through Wellington and Bismarck, would not wait for the political consolidation of France [28]

While the argument just quoted is admirable in its logic, it leaves out of account just one thing progress Bonapartism was a spent force, because it was a backward-looking force, it had done its work The Second Empire was accepted because it offered an escape from anarchy and socialism, because it stood for efficient government, a courageous (some would call it reckless) outlook on the world, and the ascendancy of a dazzling name But these foundations had crumbled away during the eighteen years of checkered for-

[27] This was written in 1908, and forty years later the impassable gulf had all but disappeared there were no royalists, certainly none as a political force A constitutional monarchy was occasionally proposed by men of the extreme right as a correction for the "evils" of constantly changing governments but no one took them seriously See C T Muret, *French Royalist Doctrines Since the Revolution* (New York, 1933) The Comte de Paris (see above, p 233, footnote) was in North Africa in 1941 and 1942, hoping that Petain would play with the idea of a restoration See R Gosset, *Conspiracy in Algiers* (New York, 1945), chap 8, "Assassination and Monarchist Plot," and Albert Kammerer, *Du Debarquement Africain au Meurtre de Darlan* (Paris, 1949), chap 26, "Le Pseudo-putsch du Comte de Paris et le Meurtre de Darlan"

[28] H A L Fisher, *Bonapartism* (Oxford, 1908), p 121

tune which had followed the coup d'état When the empire came to an end the day after Sedan, the young Prince Imperial, following to English hospitality the well-trod path of royal exiles, became on the death of his father in 1873 the hope of the Bonapartists Despite the Emperor's defeats, the son became the most popular of the three pretenders He had been too young when the empire fell to have incurred any personal odium He had to have military experience, if possible some glory, before he could in his turn stage a coup d'état The only way to get it was the hard way, the curious way He volunteered with the English troops and was killed by the Zulus in South Africa in 1879, thus avoiding the "disgrace" of either a military failure or a life lived by a Bonaparte on English soil The republicans worried little about him, for, as Thiers remarked, "no throne can have three occupants," or even two There was safety in numbers

## *AND STILL ANOTHER REPUBLIC*

On September 4, 1870, the republic was proclaimed by men who knew that in all probability the country was already doomed to military defeat but would save its honor Whether that objective was worth its cost, prolonging the struggle until January, is a metaphysical or ethical rather than a historical problem, the practical result was the same France could have had the same terms in October as in January What is certain is that the prolongation made the republicans so unpopular that a monarchically inclined Assembly was elected as soon as an armistice permitted The unbending attitude of Gambetta and his followers in favor of war to the bitter end *(jusqu'au-boutistes)* alienated many The electors, without being opposed to the republic, wanted peace But no vote was cast against the republican ideal No candidate protested against the revolution of the fourth of September The number of republicans elected amounted to about 200, the same number as that returned by each of the two monarchical groups There was a smattering of Bonapartists

The Assembly had scarcely met when all eyes turned to Thiers There was no other candidate for the headship of the state (he was not chosen President of the republic until August, since the majority of the Assembly, being monarchists, wished to put off as long as possible such a recognition that there really was a republic) Thiers could count on friends in all camps except the Bonapartists The maker of epigrams has already won half of a political battle in France, Thiers summed up the situation both neatly and accurately by saying, "The republic is the form of government which divides us the least" Not a very satisfactory base, perhaps, on which to build a permanent government, but realism was Thiers's strong point He believed that the three monarchical claimants would gradually liquidate themselves, which they did in less than a generation

One of the leaders of the legitimist party in the Assembly, Vicomte de

Meaux, discusses at some length in his memoirs [29] the question of why the Assembly did not proclaim the monarchy "Nobody at the moment thought it possible, on account of the disunited royal house" To a republic the monarchists would leave the unwelcome job of making peace, after which they would ask Monsieur Thiers to step down The obstacles to this program *proved to be three their own* disunity, the unwillingness of the little old man to conform, and the growing strength and popularity of republican sentiment

Thiers's mistakes were many, and he was difficult and temperamental In deciding that the Assembly should meet not in Paris but in Versailles he remembered what had happened when the revolutionary Assembly in 1789 was transferred from Versailles to Paris, where it came to be gradually controlled by the mob His decision was probably a mistake, since it was one of the reasons for the outbreak of the Commune But the Parisians, left without much of a government, were irritated at a monarchical Assembly, it was the old story of Paris against the countryside Essentially the Commune was an attempt to emancipate the progressive cities (for there were other outbreaks, in Lyon, Marseille, and elsewhere) from the control of the reactionary countryside The grievances of the Parisians were real enough The Assembly had abolished the moratorium on rent and other obligations accumulated during the siege, appointed an unpopular commander for the National Guard, and cut off its pay On March 18 troops sent by the Versailles government to take over the cannon of the National Guard were repulsed and the Communards' "Central Committee" established itself at the Hotel de Ville

The Paris Commune and the Leninist type of communism are hardly comparable, except in ruthlessness The Paris Commune originated from French, rather than from international, conditions Its leaders wanted to reduce to the barest possible minimum the exaggerated centralization which endured as the legacy of the first Napoleon, and to leave the local bodies not only full powers of self-administration but the right of self-organization In other words, France must become a federation of autonomous communes, gradually extending their authority to include the contiguous countryside [30] In time, the supremacy of Paris must again have exerted itself, but Paris, as far as they could effect it, would be merely *primus inter pares* The Commune had even less chance to test its ideas than the republic of 1848, and its leaders were far less able, much less honest

And so the Third Republic gets off to a very inauspicious start It is the fashion to decry it, and along with it the political capriciousness of the French people—their temperamental impossibility of giving themselves a government at once democratic and stable Evidently, however, they had succeeded, by

[29] Vicomte de Meaux, *Souvenirs Politiques* (Paris, 1905)

[30] The Communards may have remembered that the mayor of New York in January, 1861, proposed that New York become a "free city," on friendly commercial terms with both the new Confederacy and the residual United States

a long and painful process of trial and error, in giving themselves the type of government best suited to their temperament No other regime since 1789 had lasted more than eighteen years, the fall of the republic in 1940, in so far as it had domestic and political causes, was due not to its republican organization but to the men who worked it The constitution of the Third Republic had none of the philosophical or scientific interest of the American constitution, *it is simply a scheme or outline of procedure Why is this? Partly* because Frenchmen, although they do not like to improvise, being a formal, methodical folk, have been affected perforce, in considering changes in their political structure, by the exigencies of the moment, as well as by inherited difficulties, such as the monarchical tradition The French must largely be opportunists They have never seriously applied themselves to the scientific study of constitutional law as it would affect their own institutions and life They have studied the politics of other countries and have made an outstanding contribution in describing them both objectively and democratically Alexis de Tocqueville in the United States was the precursor by fifty years or so of James Bryce, in our own days Elie Halévy and Edmond Vermeil have analyzed English and German political life and doctrines with that combination of thoroughness and charm which is called French historiography

But there has been no thought of taking over any of the ideas which those historians have described Most of these ideas are too rigid for the French If to the American, Englishman, or German France seemed badly governed, he was perhaps no psychologist, but a narrow-minded nationalist "Nothing," wrote Bodley fifty-two years ago, "which strikes the eye of the itinerant stranger suggests that the country is ill-governed, and he often takes home an idea that things are managed better in France than elsewhere" If that was so, it was largely because things were not managed at all there was the minimum of interference with one's private life and social concerns and business dealings, the notorious superfluity of bureaucracy and red tape was the necessary concomitant of a highly centralized government "But why not do away with that centralized system and give constitutional government, in the English or American style, a chance?" The answer, like it or not, is that if the Napoleonic fabric of centralization, which has survived the vicissitudes of a hundred and fifty years, had been demolished, it would have brought down with it most of the institutions of the republic, with the necessity of bringing in another Napoleon to reconstruct it

Anglo-Saxon critics of French democracy are necessarily, though not intentionally, affected by the success of their own institutions The question of whether the level of public or parliamentary life is higher in one country than in another is a social rather than a political problem Moreover, time is obviously necessary if politics is to be given a traditional place of honor A young democracy like the third French republic may in its early days have inspired enthusiasm but hardly contributed experience However that may

be, the average of debating capacity was, and probably still is, higher in the Chamber of Deputies than in the House of Commons or the House of Representatives This is due, oddly enough, to one of the evils of French politics—the multi-party system, which needs a special kind of technique necessarily lacking in two-party countries—skill in making combinations, intrigues more often subtle than creditable Where a debate is a battle, and not, as in England, a playing-field, it is

> difficult to obtain a sufficient amount of agreement for stable government, the more so as the beautiful party system of England cannot be realized in France, since it is too much to expect that an assembly of 500 minds should hold no more than two opinions In the English assembly opinions are not the leading forces at all—the leading force is the conviction that things must get done Now, in the French Senate and Chamber the desirability of getting things done must wait on the all-important questions of how they are to be done, who is to do them, and in the name of which principles, and it is easy to see that while roads to action are bound to converge, roads to thought radiate in all the directions of the mind In France a man who gives up his opinion in order to get on with the business is looked upon with suspicion, for an opinion is the most cherished possession of the Frenchman [81]

But whereas the French elector votes according to his ideas, the English elector bases his vote on a platform, he chooses his representative according to the latter's attitude toward a concrete problem The French elector votes left or right, the English votes for or against The French elector, being attached to his opinions, remains faithful to himself at the same time as to the party for which he votes In England, however, the sudden changes of the majority, due to the ideological instability of the voters, are current phenomena

The multi-party situation naturally results in a weak state French individualism demanded a weak state for fear that a strong state would menace liberty, and so it got an inefficient state It is very easy for a nation to lose its strength without the state's becoming strong It might be said to be the tragedy of the French that, from the watershed of their great Revolution, they developed divisions which impaired their unity while, since the Napoleonic experiment had failed, the dominant philosophy hampered the creation of a strong state Their choice was deliberate Nothing forced them into it Nothing, that is, except history, tradition, experience, and their own temperament

[81] S de Madariaga, *Englishmen, Frenchmen, Spaniards* (Oxford, 1931), p 159, one of the most penetrating, amusing, and subtle exercises in comparative psychology in recent years To be compared with D W Brogan's studies of the English and American minds Also valuable, but heavier, is M Demiashkevich, *The National Mind English, French, German* (New York, 1938)

## *HOW MANY CONSTITUTIONS?*

France is the specialist in constitutions among nations A purely factual summary may prove useful at this point

August 26, 1789, to July 16, 1791 Nine acts or laws were passed, which collectively may be called the first constitution It was accepted by the King on September 13, 1791

August 10, 1792 The National Assembly voted "the act which provisionally suspends the Executive Power, and convokes the National Convention" The resulting constitution was never in force

October 10, 1793 Its application was suspended until the end of the war, and a "provisional revolutionary government" was instituted, organized by a law of December 4, 1793 For two years France, without a constitution, was a prey to civil war and anarchy

September 22, 1795 The directorial constitution was voted by the suffrage of the primary assemblies, but on

November 9, 1799 (18 Brumaire, year VIII) it disappeared under the pressure of Napoleon's coup d'état

December 13, 1799 The consular constitution was ratified by a plebiscite, and went into effect on February 7, 1800

It was several times amended, chiefly by the proclamation (August 2, 1802) of the consulate for life

November 6, 1804 The constitution establishing the empire was ratified by a plebiscite This too was amended three times

June 4, 1814 The "Constitutional Charter" reestablished the Bourbon dynasty With a slight but dramatic interruption, it lasted for sixteen years

June 1, 1815 A few days before Waterloo, Napoleon published an "Additional Act to the Constitutions of the Empire," ratified by a plebiscite

August 9, 1830 The Constitutional Charter was revised, though not drastically changed, it was amended three times

November 4, 1848 The Constitution of the Second Republic was ratified

January 14, 1852 The revised republican constitution borrowed its essential characteristics from the constitution of the year VIII

November 7, 1852 The constitution reestablishing the empire was passed by the Senate and later ratified by a plebiscite It was amended sixteen times, most importantly on May 21, 1870, incorporating the liberal reforms of Ollivier—practically a new constitution It was ratified by a plebiscite

September 4, 1870 The empire fell and the republic was proclaimed

February 17, 1871 Thiers was elected Chief of the Executive Power

August 31, 1871 Thiers was given the title of President of the Republic

May 24, 1873 Impatient at the slow progress of republicanism, Thiers resigned, and was replaced by MacMahon.

November 20, 1873 An act of the Assembly confided the executive power to MacMahon for seven years

February to July, 1875 The laws which together are considered the constitution of the Third Republic were adopted by the National Assembly

Each constitution has been drawn up by people with very keen memories of the evils of the preceding regime, since each generation gave itself at least one constitution All this was good if it meant a sincere, conscious effort to improve, but not so good if it was based on opportunism, hasty thinking, desire for change for the mere sake of something new

The minds of the legislators of 1875 were chiefly full of the evils brought upon the country by a personal power Hanotaux says that liberalism was the dominant preoccupation, and adds, rather puzzlingly, that this was in no contradiction with the aristocratic origin of a great many of the deputies Says he "A more really democratic Assembly would have inclined toward simpler and perhaps more dangerous solutions" [32] By "more dangerous solutions" is meant, perhaps, the temporary character of the instrument A monarchically inclined Assembly was not going to give the country a brilliantly conceived, epigrammatically phrased constitution which would set the republic irrevocably on its feet, it accepted popular sovereignty but feebly, never proclaiming it, never appealing to it

In what ways was the constitution of 1875 intended to be temporary, intended even (though this is questionable) to be so unworkable as to lead rather speedily to the substitution of another and more revolutionary instrument, at the cost, it might be, of civil war? The "constitutional" and the "organic" laws of February and July, 1875, were a series of disconnected ordinances which left a large area blank They contain no provision for the judiciary organization of the country, none for public finance, none for methods of voting, and, especially striking, none outlining citizens' rights Under such conditions one might have wondered what was really the basis of French public law Probably that basis is to be found in precedents, beginning with the Declaration of the Rights of Man, which had been reaffirmed in many of the constitutions listed on a previous page But by 1946 those rights of man had obviously been so forgotten as to necessitate a new expression of them, with modern trimmings Barker points out [33] that though those laws "contained some elements of compromise and especially a large concession to the principle of bicameralism, they were far from providing a genuine compromise which would achieve a national acceptance and would issue in a general 'agreement to differ' only on non-essentials Essentials still remained in question, and while the Left was generally enthroned, and proceeded to consolidate its position with the passage of the years, the Right formed an opposition which challenged not only the government but also the constitu-

[32] Gabriel Hanotaux, *Contemporary France* (London, 1907), vol III, p 286

[33] Ernest Barker, *Essays on Government* (Oxford, 1945), p 86

tion" The monarchists accepted a republican constitution because it was a mere façade for a really monarchic edifice The republicans banked on the stupidity and intransigence of the royalists and, playing for time, were willing to accept a weak instrument for the sake of getting the republican principle accepted

# Chapter 16

# The Third Republic

## *EIGHT YEARS OF DOUBTFUL REPUBLICANISM*

THE REGIME under which France was governed between 1871 and 1873, usually called the "republic of M Thiers" (and he is always *Monsieur* Thiers, not just Thiers), was a rough-and-ready working compromise between the French tradition of investing "national sovereignty" in a single, elected, national Assembly, and the demands of urgent emergency The Assembly which met at Bordeaux in February, 1871, just after the armistice had been concluded, assigned itself but one job, that of making peace It presided, to be sure, over a republic but was by no means sure of what kind, or even whether it would be more than a stopgap, and it was not until August that the title of M Thiers was changed from Chief of the Executive Power to President of the Republic The little man himself was no great liberal, certainly no hero, no revolutionist, just a wise, shrewd judge of men, determined, stubborn, grown old in parliamentary experience [1] To meet the challenge of Gambetta [2] from the left, he became, outwardly at least, more and more of a leftist, but six months before he resigned he declared to the monarchical Assembly that "the republic will be conservative or it will not exist at all" to the last, a compromiser who preferred, without enthusiasm, a republic to any of the alternatives

As M Thiers grew older he became more dogmatic, if possible even more

[1] There is no good life of Thiers in English A solid, scholarly, but dull biography is by Henri Malo (Paris, 1932) For discussions of Thiers's part in the formative years of the republic, see the Bibliography at the end of this part The 150th anniversary of his birth was commemorated by an excellent article in the *Times Literary Supplement*, April 19, 1947

[2] Partly, perhaps, because of his picturesque and romantic life, Gambetta has been the subject of about a dozen biographies, many of them excellent, some translated A good treatment in English is by Harold Stannard, *Gambetta and the Foundations of the Third Republic* (London, 1921) A President of the republic, Paul Deschanel, wrote an excellent short biography, translated (New York, 1920) Another good short life is by his cousin, P B Gheusi, who supplies new personal information in *La Vie et la Mort Singulieres de Gambetta* (Paris, 1932)

stubborn Accordingly the powers of the President, as expressed in a series of laws culminating in March, 1873, became gradually weaker and to some extent gave direction to the constitutional acts of 1875 which finally defined the position of the executive In April, 1873, there was a parliamentary vacancy




Departements, France

in a Paris district and Thiers's candidate was his Foreign Minister The left determined to rebuke the President and show its strength by putting up an opponent The campaign was fought not on the issues of the day but on that of two years earlier, the Commune the President of the republic had abandoned and besieged Paris and had caused the death of thousands of her citizens Thiers's man was badly beaten The President could no longer claim to be an effective barrier defending both the republic and the social order

Other special elections showed that the left was still gaining, and where it did not triumph, oddly enough it was the Bonapartists who did But on May 23 the Assembly, by a majority of twelve, adopted an order of the day which proclaimed that "it is important to reassure the country by maintaining in the government a policy resolutely conservative" It was a direct slap at Thiers, too republican, not conservative enough to suit a monarchical Assembly Without delay he resigned, and without further delay the Assembly elected Marshal MacMahon The bewildered soldier felt that politics was not his business, and his few intrusions into the field were so unhappy that no successor, save perhaps Millerand, dared to repeat them

A monarchical Assembly did not, of course, mean to keep MacMahon indefinitely in office, but the royalist pretender, the Comte de Chambord, was his own worst enemy and made his restoration impossible by insisting, among other absurdities, on the replacement of the tricolor by the white flag of his ancestors What possible difference, you will ask, could it have made, since a flag is only a bit of bunting? But to have abandoned the tricolor was to repudiate dramatically and permanently all the progress, all the civil liberties which the Revolution had inaugurated, even the monarchists in the Assembly, some of them, were aghast at the implications of the demand It was the intransigence of Chambord which as much as anything led the Assembly to get at the business of a constitution and thereby to strengthen republicanism

On the famous sixteenth of May (1877) an event unique in French republican history took place the Chamber of Deputies was dissolved,[3] thanks to a combination of all the reactionary elements in the republic—the President, the Senate, the church, who considered that if they did not now test the strength of the republic it would soon be too late New elections would clear the air They did, but for the reactionaries the air became murky indeed The majority of the Chamber elected in 1877 after the dissolution of the first was even more republican than its predecessor, but the legislative power did not pass wholly to the republicans until the senatorial elections of January, 1879, which, removing from the conservatives the small majority which they had possessed, brought on, a few days later, the resignation of MacMahon, who was succeeded the same day by the genuinely republican Jules Grévy Thus it was more than eight years after the establishment of the republic before the executive and both branches of the legislative were thoroughly republican Halfway through that period the constitution was adopted Obviously it was vitally affected by the uncertainties of those eight years

[3] Art 5 of the constitution (February) "The President of the republic may, with the advice of the Senate, dissolve the Chamber of Deputies before the legal expiration of its term In that case the electoral colleges shall be summoned for new elections within the space of two months, and the Chamber within the ten days following the close of the elections"

It is time now to examine the four-headed hydra—the presidency of the republic, the presidency of the Council of Ministers and the cabinet, and the two chambers—which was in 1875 thrust upon the French people If we spend more time on the personality and tenure of the President than seems justified by his constitutional importance, it is because after all he was the head of the state, each President had ideas, positive or negative, regarding the inhibitions of his office, and the fact that not even the strongest among them dared to do much about it is in itself significant testimony to the power of custom and precedent

*THE PRESIDENTS*

Adolphe Thiers, 1871-1873, resigned
Marshal MacMahon, 1873-1879, resigned
Jules Grévy, 1879-1886, 1886-1887, resigned
Sadi-Carnot, 1887-1894, assassinated
Casimir-Perier, 1894-1895, resigned
Félix Faure, 1895-1899, died in office
Emile Loubet, 1899-1906
Armand Fallières, 1906-1913
Raymond Poincaré, 1914-1920
Paul Deschanel, 1920, resigned
Alexandre Millerand, 1920-1925, resigned
Gaston Doumergue, 1924-1931
Paul Doumer, 1931-1932, assassinated
Albert Lebrun, 1932-1939, 1939-1940

There have been fourteen Presidents The average age of the twelve who were elected under the constitution of 1875 was sixty Five came to the Elysée from the presidency of the Senate, three from the presidency of the Chamber of Deputies, four with varied ministerial experience It might be interesting to compare the American presidency During the same period there had been thirteen elected Presidents of the United States Their average age when inaugurated was fifty-one Only one came to the White House without any previous political background, seven had been governors, two senators, one a representative, and two had had important cabinet experience In the one case a parliamentary career of some kind is indispensable, in the other, the federal republic, not nearly so important

When Grévy was elected, he was seventy-three years old and had been president of the Chamber and since 1848 a war horse of consistent conservatism The first President of the republic, a really great patriot, and his successor, an impressive but reactionary figurehead, had both, as we have seen, been forced out of office by Parliament The third President was wiser, for he announced in his first message that he would not set his personal views against those of the people's representatives It was a needless remark, for of course he could not have done so if he had wished, but it was under the

circumstances wise and tactful His gradually diminishing popularity showed that he could not stand success and prestige and wealth His family feeling was one of the causes of his downfall One brother was a general, another a senator and governor general of Algeria, and more unfortunately, he had a son-in-law who had the further misfortune to bear the un-French name of Daniel Wilson The Wilsons lived in the Elysée, and Daniel used his influence and knowledge of political and social secrets to create what in America would be called a well-oiled machine, in particular to secure for friends, largely through their lady friends, the red ribbon of the Legion of Honor *L'affaire Wilson* grew to be *l'affaire Grévy*, the stingy, selfish old man became a comic character (in that not unlike some of the other Presidents) and is reported to have said, "Every day I hang on I get 3,333 francs" Only two years after he had been reelected with very little opposition Grévy was practically forced out

Jules Ferry was a dangerous competitor for the office, but one too conspicuous, too energetic, perhaps too rash and tactless Brogan puts it too succinctly when he says that "Grévy had been elected in 1879 because of what he had said in 1848, Carnot in 1887 because of what his grandfather ['the organizer of victory'] had done in 1793" Perhaps his election does mark a further stage in the decline of the presidency, from which it was, politically at least, not to recover until the election of Poincaré, but one cannot see that it matters too much so long as the incumbent of the Elysée was honest and dignified, if he were aught else, it would have been almost revolutionary Only fifty at the time of his election, Carnot had gained his political experience by holding rather minor portfolios in several of the recent cabinets He was assassinated by an Italian anarchist at Lyons

Casimir-Perier at forty-seven is the youngest man to have achieved the presidency, generally reserved as the reward for a lifetime of political service His personal background was decidedly different from that of all his predecessors and successors He had been president of the Chamber but was an arrogant, unsociable aristocrat Why then was he chosen, thus breaking the democratic chain? Perhaps for his very austerity and energy, for those were the years of anarchist violence which had culminated in bomb throwing in the very halls of Parliament and finally in the murder of the President To this unrest the new executive was supposed to put an end, as well as to write finis to some political scandals like the Panama affair, and Dreyfus had just been arrested The millionaire nephew of a duke, the grandson of that minister of Louis Philippe who had so rigorously maintained order, would arouse expectations of a strong man at last Why an intelligent man of ambition could expect under the existing constitutional restrictions to make the presidency aught but a figurehead is hard to understand Millerand was to try it twenty years later with the same result As Americans would say, Casimir-Perier could not take it, six months were enough for him

Félix Faure, fifty-four when he was elected, was a type not too usual in

French politics, where the leaders are generally journalists or lawyers A pompous, vain, fat, and fatuous man, he had amassed a comfortable fortune in Havre as an importer and exporter and had had the least political experience of all, having to his credit but a short term as an obscure Minister of the Navy Zevaès goes so far as to say that he "was devoid of all talent and of all merit, fond of the external marks of power, sensitive to flattery, a man whose head was in a moment turned by the company of the great," as when the Czar and Czarina paid him a visit to cement the alliance Wealth in itself cannot elect a French President, for in many cases, as in that of Faure, there can be no direct campaigning for more than two or three days, yet a wealthy parvenu may be so anxious for the social prestige of the office that even in those two or three days he may promise and perhaps even bribe But probably the real reason for the election of Faure was his leading opponent, Waldeck-Rousseau, the great anticlerical, during whose ministry eight years or so later the separation of church and state was to bring the republic to the verge of civil war

Emile Loubet was sixty-one in 1899 when Faure died, and had been president of the Senate for the previous three years He was known to favor the reopening of the Dreyfus case, and it may well have been in the thoughts of the members of Parliament that here was a good chance to test public opinion, despite the lack of power of the President to do anything definite about *l'affaire*, he had, however, the power of pardon, which Loubet could, and did, use as a last resource

Armand Fallières, sixty-five in 1906, simple, kindly, benign, like his predecessor had been president of the Senate for three years His opponent for the presidency of the republic was Paul Doumer, later to be elected to the office

Raymond Poincaré, of course, definitely belongs to the line of strong executives [4] He came directly from the premiership to the presidency but had held a number of portfolios of varied types A Lorrainer, like Jules Ferry, he was in 1914 fifty-four years old and preserved vivid memories of the devastation in 1870 by the Germans of his ancestral home He was a great lawyer, not a brilliant pleader like Briand but a prodigious master of detail, endowed with an astonishing memory and tireless capacity for work His election warmed up the dead coals of once passionate chauvinism, and although it is somewhat inaccurate to term him later "*Poincaré-la-Guerre*," the choice of such a man at such a time did revive a nationalistic temper Certainly he did not conceal his close accord and collusion with the Czar and the Russian ambassador at Paris, and if only one could place greater confidence in the latter's good faith, one might well assign to the doughty little Lorrainer some share of the "war guilt" which one or two "historians" used to assess from a mathematical rather than a scholarly point of view

The situation at the expiration of Poincaré's term seemed to favor Clemen-

[4] See especially Gordon Wright, *Poincare and the French Presidency* (Stanford, Calif., 1942)

ceau Old and physically tired as he was, his seventy-nine years seemed only to sharpen his shrewdness and to give him but the added advantage of an experience of life, people, and politics never before or since enjoyed by any Frenchman He had, however, a disadvantage which had been shared by Waldeck-Rousseau and Combes, two great Prime Ministers Catholics would not pardon him his atheism and anticlericalism,[5] and a partial renewal of the concordat was in the offing, partly as a reward of Catholic loyalty during the war, partly to take care of the new situation created in Alsace and in Syria Then too, Clemenceau's manners, brusque and tactless, and his unpolitical way of always saying exactly what he meant, made him too many enemies. To *Père la Victoire* was preferred a man of such absolutely opposite type as to seem almost intentional As much of a littérateur as politician, Paul Deschanel, sixty-five years old, had been the elegant, dilettante president of the Chamber Clemenceau was soon avenged, for the new President began to display what was at first thought to be high-spirited eccentricity but was soon seen to be madness, and seven months after his election his friends had to guide his fingers as he signed his resignation

Alexandre Millerand, at sixty-one, came to the presidency with a wealth of political experience A deputy for the past thirty-five years, he had been an editor of several Socialist newspapers before first becoming a minister in the great cabinet of Waldeck-Rousseau (1899–1902) He was on record as favoring a constitutional amendment giving the President more power—exactly how much he was cagey enough not to state His election, then, seemed to him a warrant for making good his intention Whether or not he actually did recall Briand in 1922 from the negotiations at Cannes, where he was wrangling with Lloyd George over reparations, is uncertain The President denied it But in any case it was an end of Franco-British collaboration, and probably the consequent discrediting and fall of Briand was partly, at least, the result of an increasing interference by Millerand not only with foreign questions (where his constitutional prerogative gave him some right to interfere) but in domestic politics as well A year later he reminded the deputies that further ministerial crises, brought about by reasons which he did not approve, might cause him to dissolve the Chamber This he had the right to do, but a right unused for more than four decades is a questionable one Things came to a head in 1924 when Edouard Herriot, leader of the majority party (*Cartel des gauches*) [6] refused to form a government at the President's behest A ministry formed by a member of a minority party is

[5] "Clemenceau would never enter a church His refusal when he paid a visit to Strasbourg after the armistice to attend a celebration of the liberation of Alsace in that glorious cathedral lost him the presidency of the republic when he was the most popular and powerful man in France" Lloyd George, *War Memoirs* (London, 1933-1936), vol v, p 357 A somewhat exaggerated statement, women did not vote in 1920

[6] A bloc of leftist deputies

unusual, and to avoid it the Chamber practically staged a sit-down strike "It refuses the unconstitutional debate to which it is invited, and decides to adjourn all discussion until the day when a government shall come before it which is constituted in conformity with the sovereign will of the people" [7] At least Millerand was open and aboveboard His judgment is questionable, but not his courage If he had succeeded in his aim he would have brought about such a revision of the constitution as to change the whole parliamentary character of the republic, for it is doubtful whether, flushed with his initial victory, he would have stopped there, he might well have gone on and attempted to give the President something of the powers which he enjoys in the United States, and that could only have been done, of course, after a revolution which though it might have been peaceful might also have given us a Fourth Republic twenty years before it came

Those four years did clear the constitutional and parliamentary air Whether for good or ill depends on one's conception of the executive power Certain it is that Millerand's three successors took warning, though it is entirely probable that their temperaments would not have encouraged them to try the Millerand experiment in any case

Gaston Doumergue was sixty-two in 1924 and after having served in numerous cabinets was president of the Senate in 1923 A Protestant and a bachelor, he was popular without being greatly respected, genial, superficial, he was perhaps a cross between William H Taft and Calvin Coolidge Yes, the French system had a place for such a mélange His predecessor was oratorical and temperamental, he would be silent but not sullen, he would dedicate monuments and open hospitals but would have no program of his own which might before long entail the erection of more monuments to dead heroes or more hospitals for war casualties He was a safe man, in a world where safety meant freedom from entangling alliances and the preservation of the *status quo*, so safe that as an elder statesman he was recalled to head a cabinet a couple of years after he had left the Elysée, a compliment paid only to Poincaré, and that on account of his supposed financial wizardry

In 1931 Aristide Briand was a candidate But he had been all his life too much to the left to be considered as free from political bias as an aspirant to the Elysée should be, although he was at times sobered by power, as when he ingeniously settled a great railroad strike in 1911 by calling out as reservists all the *cheminots* and assigning them as soldiers back to duty on their old jobs That was almost too clever, and for a while alienated the Socialists without gaining friends and influencing people on the right Now in his old age, he had taken on some strange ideas he became a friend of the German Chancel-

[7] "The Chamber, by forcing Millerand to retire by means of the ministerial strike, certainly went contrary to the clearest intentions of the constitution" Barthelemy, *Le Gouvernement de la France* (Paris, 1939 ed ), p 93

lor Stresemann, he believed fanatically in a United States of Europe, he thought that friendship with America was as important a pivot of French security as was the League of Nations, and persuaded the American Secretary Kellogg that the pact which bears their names would send them together down to posterity So Briand joined Clemenceau and Ferry in finding that it was possible to be too conspicuous and able a man to enter the Elysée save as a visitor, and eleven times prime minister He died the year after the election of 1931, and France's hopes of seeing another great Foreign Minister (of whom she had dire need) rested on Louis Barthou

Doumergue was succeeded by Paul Doumer, and (except for their appearance) there is about as much similarity between the men as between their names President of the Senate like his predecessor, Doumer was now seventy-four and the oldest of all the Presidents After less than a year in office he was assassinated by a demented White Russian who said that he wished to push France into a war against the Soviets

Again the president of the Senate succeeded But Albert Lebrun, sixty-one years old, was an engineer by profession A brilliant graduate of the Ecole Polytechnique, he always retained his interest in the industrial development of the country but was essentially a mediocre man, fonder even than most Presidents of making platitudinous orations [8] The supreme test of his character came in June, 1940, for he had been reelected in 1939 because Parliament did not care to go through the throes of finding a new candidate on the eve of war There is a theory, however, that Daladier, who had been given semi-dictatorial powers the previous year, engineered Lebrun's reelection because he thought he could control him An extraordinarily scrupulous care for the constitution prevented Lebrun from reappointing Reynaud as Premier after the latter had resigned on the issue of an armistice Lebrun's first inclination was to do so and to ask Reynaud to reshuffle the cabinet The President's dilemma was indeed tragic Pétain and Weygand, who should have known, assured him that resistance was useless and whether or not the government went to Africa, they would remain so as to maintain order and to offer themselves, as it were, a sacrifice to German wrath Reynaud was outvoted in his own cabinet, there was a slight majority for an armistice and if he had been called back after his resignation it is doubtful whether he could have formed a government A Poincaré would probably have transferred the

[8] "On June 21, the culminating point of disaster, although seemingly determined to transfer the seat of government to North Africa, in order to carry on the fight at England's side, he let himself be intimidated by the counter-revolution, shelved the heroic and reasonable plan, and collapsed pitifully amid the ruins of constitutional law He stood aloof while Petain and Laval set their dictatorial regime going and imposed unlimited surrender Every diplomatic and military move seemed to him loaded with unspeakable risks Naturally, fascist sales talk found him helpless on every occasion Georges Bonnet never ceased to look upon him as an ally" Pertinax (André Geraud), *Les Fossoyeurs* (New York, 1943), vol 1, p 204

government to Africa, with or without Pétain, and would have avoided the needlessly tragic naval clash with England at Mers-el-Kebir in July

Lebrun admired Poincaré as a model President He is a careful student of the latter's voluminous memoirs, *Au Service de la France*, and in his *Témoignage* devotes many pages to quotations showing how indignant his predecessor was at his constitutional limitations but at the same time how scrupulously he observed them

> As soon as the mobilization [of 1914] was over, I express to Messimy [Minister of War] my intention of going as soon as possible with him to the front so as to address to the armies the good wishes of the State He does not believe the moment is ripe So here am I forced to remain shut up, and, head of a republican state, to pass for a *roi fainéant* I am deprived by the constitution of all means of personal action and up to now neither the staff nor the Minister of War give me much more information than to the press and to the public In vain I protest, they answer me only with silence [9]

> We exchange a few words about public powers in time of war The King of the Belgians says, smiling "What complicates a little the job of the head of a state is that when things go well, they compliment the ministers and when tney don't go well, they blame the sovereign or the president" The King of England made one day the same remark, with the same smile [10]

> Clemenceau was right when he said to me one day "I am popular and you are not" Why should I be? Everybody believes that it is Clemenceau who saved Paris and the armies on the 24, 25, and 26 of March My action is never publicized I can neither pronounce a word nor make a gesture I am a soul without a body If, alas, we should suffer a bad or even a mediocre peace, all the blame would fall on me That sacrifice I owe to the fatherland [11]

These rather morbid and lachrymose reflections (and scores of others which are quoted) could not have failed to impress a weaker man

> I can [says Lebrun] only record my thoughts, having known like him, on the eve and in the course of a war, the same preoccupations, the same cares, the same servitudes Many of those who will read these pages will no doubt experience some surprise What! they will say, is that the role of the head of a great state? Yes, and it cannot be otherwise It is the logic of things with a constitution such as that which rules us There cannot be two responsible chiefs Responsibility must be where sovereignty is It is before the chambers elected by the sovereign nation that the ministers are responsible collectively for the general policy of the government and individually for their personal acts Presidential irresponsibility is not only

[9] Poincaré, *Au Service de la France* (Paris, 1928), vol v, pp 122, 123
[10] *Ibid*, vol vii, p 52
[11] *Ibid*, vol x, p 137

a convenience, a fiction, it is a reality, a necessity When France, considered in its entirety, has a role to play, it is the President of the Republic who personifies her, he represents permanence in the midst of governments which change at the whim of parliamentary majorities When ministerial crises occur, making every effort to raise himself above parties and to interpret constructively the will of the people as expressed by the votes of the chambers, he designates the future president of the Council Does all that mean that he is powerless? Not at all As Poincaré has written, by the legitimate influence conferred upon him by his title and by his own character, he enjoys a great moral authority [12]

It will be seen that this great moral authority has been abused by hardly any of the heads of the Third Republic If dignity has been the outward and visible requirement of their success, the inner and more important qualifications have included, primarily, a political sense or "feel" as to the best man to choose as the new president of the Council of Ministers—which is beyond a doubt the President's most important function It will be said that this is not so very difficult after all, since his choice is by custom and expediency confined, most often, either to the man who has been most instrumental in toppling over the old ministry or to the head of the party or bloc in numerical opposition—often the same man But in a multi-party system it is not always so easy Often he has to be a real arbiter between competing claimants In Doumergue's presidency, for example, there were fifteen cabinets, and five unsuccessful attempts to form governments, so that the smiling little President must have lost some of his joviality when he issued his twentieth invitation to one of the possibilities In a large number of these crises it was not immediately apparent who was the proper person In a coalition of six or seven parties which is really the strongest? Custom dictates that the President of the republic consult the presidents of the Senate and the Chamber [13] since these know both the inside story of the defeat of the last cabinet and the personalities of the men who caused it Occasionally he has disregarded the advice of these two veterans Lebrun did, in that fatal June, when both Jeanneney and Herriot turned against Pétain, and he should have lived ever since in sackcloth and ashes But of course the two presidents may not agree, and in the last analysis the responsibility is that of the President of the republic

To the student of English parliamentary procedure this will of course seem more than a little involved and inefficient Theirs in comparison is simplicity itself But it proceeds, obviously, from a fundamental difference theirs is historically a two-party system When one party is defeated, the King has hardly any choice, of practical necessity he calls upon the leader of

[12] Lebrun, *Temoignage* (Paris, 1945), p 238

[13] There are four men who are always called *Monsieur le President* the President of the republic, the president of the Council of Ministers, the president of the Senate, the president of the Chamber of Deputies

the opposition And that is that But if the Englishman reproaches the Frenchman for these twenty cabinet crises in a period when across the Channel there would be, at the most, two (and they probably would not be called crises) the Frenchman will answer one thing, in addition to his defense of his 100 percent democracy, which makes the ministry instantly responsive to the popular will and not the result of an expensive general election He will say "These 'crises' are not really so bad as they seem, anyway, they suit the national temperament,[14] they should not be taken too seriously And isn't it better, from the point of view of distributing responsibility and of educating more people to be leaders, to have twenty men who are capable of being premiers or ministers[15] than two?" The argument will not get you anywhere since it proceeds rather from patriotism than from thoroughgoing approval For it is a fact that the Frenchman of today feels that much of the instability and inefficiency of the latter years of the Third Republic was due to the self-centered ambition which as often as not brought about the defeat of a cabinet

## *THE DUTIES OF THE PRESIDENT*

Now that we have discussed individuals it would be well at this point to refer directly to the constitution Said Article 2 of the Constitutional Law of February 25, 1875 "The President of the republic is elected by an absolute majority of votes by the Senate and the Chamber of Deputies sitting together as the National Assembly[16] He is named for seven years He is eligible for reelection"

This was the celebrated "Wallon amendment" It was, of course, a question of affirming or rejecting the word *republic* France had had the thing for nearly five years, should she still be denied the name? Wallon maintained that it was high time to escape from the uncertain, the provisional, under which she had been living for so long The occasion was the debate on the law for the election of the President There had been a President for four years What could be more innocuous than providing a method for his election? If the word *republic* got into the law, that was merely a recognition of the facts But it is odd that the republic was first officially named in this indirect way, it does not seem like French logic That Article 2 was carried by only one vote shows that not yet had thoroughgoing republicanism been

[14] And that temperament has not changed, for there bid fair to be about as many cabinet changes in the Fourth Republic as there were in the Third

[15] *Ministrable*, as they succinctly put it

[16] There were only two occasions for their sitting together the election of a President and the revision of the constitution On these two occasions they met in the palace of Versailles In the interval between two presidencies, never more than three days, even in case of death, the Council of Ministers acted as the executive

accepted by a very large number of the people's representatives Henri Wallon, an obscure professor of history, never dreamed of such fame, he is as a politician rarely heard of again

Was there any particular reason for fixing the term at seven years? In the case of the American President, the reason for four years is obvious, although reformers have often objected that a term not corresponding with that of the House and of part of the Senate would tend to divorce the presidency from Congressional politics Some of those who hold that view favor a term of seven years, others, more numerous by far, advocate a single term of six years, even though it does not meet the objection stated For the French President's term there seems to be no reason which can be deemed political or parliamentary, it was just a good figure, neither long enough to be contrary to democratic principles nor short enough to lead to instability Perhaps, too, Biblical tradition attributes to that number a symbolic and semisacred character As a matter of fact it was the personality of MacMahon, President in 1875, which seems to have swayed the Assembly, he informed that body that "seven years would be more in keeping with the strength which he could consecrate to his country" (At the end of his term he would have been seventy-three)

What were the other duties of the President besides that of choosing the new president of the Council of Ministers? He shall, said Article 3 (February 25, 1875), "have the initiative in proposing laws, concurrently with the members of the two chambers He shall promulgate the laws when they have been voted by the two chambers, he shall superintend and secure their execution" This does not mean that he could go before either chamber and ask that it vote a law All he could do, despite the seemingly stronger language of the constitution, was to express an adverse opinion in the Council of Ministers, if the latter still sent the bill to the chambers he might [17] call the attention of the country to the sad situation by imposing upon the chambers another deliberation But for his own good, if not for that of the country, he did not do what legally he could have done never asked a second deliberation

"He has the right of pardon (Amnesties cannot be granted except by a law) He has direction of the armed forces" This was another example of MacMahon's influence "He appoints to all civil and military posts He presides at State occasions Envoys and ambassadors of foreign powers are accredited to him Every act of the President must be countersigned by a minister"

Most, or many, of the acts of the President of the United States are also signed by the appropriate cabinet officer, but his power is not thereby curtailed In law, the power of the French President was, and still is, fixed by the central principle of his irresponsibility The last word in matters of policy must lie with the ministers, for the obvious reason that power must be where

[17] Under Article 7 of the Constitutional Law of July 16, 1875

responsibility is Since the authors of the constitution could not create the head of the state on the hereditary principle, they did the next best thing and put him in a seven-year position of dignified, well-paid powerlessness, the best evidence of which was his legal dependence upon a minister Nothing more resembles the real authority of a constitutional monarch But as republicanism became more popular, why did not these liberals give him more power? That they could not do without diminishing the power of Parliament

Article 5 gave the President more power than he cared to take advantage of "The President of the Republic can, with the agreement of the Senate, dissolve the Chamber of Deputies before the legal expiration of its mandate [i e, before the end of the four years for which it was elected] In this case, the electoral colleges are convoked for new elections within a period of three months" Never after 1877 did the President exercise this right, though the ambitious Millerand must have been strongly tempted In this the English practice is more democratic The French President might conceivably act on whim or out of pique, though that was hardly likely since he had to carry the Senate with him The King acts only on the advice of his cabinet While the Chamber of Deputies frequently dismissed cabinets, it was not itself liable to dissolution by the cabinet An English Prime Minister can advise the King to dissolve Parliament and can thus appeal to the country, a French Prime Minister had no such power Every Chamber lived its full four years, so the American voter had twice the opportunity of checking on his representatives as had the French Yet the French Chamber had probably less of a turnover than the American House, figured over a considerable period The French take politics more seriously As has been shown, both Presidents and members of Parliament have long training

Under Article 2 of the Constitutional Act of July 16, 1875, "the President of the Republic declares the session closed" He had to be satisfied that the chambers complied with the law and did their duty, though if they did not, it was hard to see what he could have done about it "He has the right to convoke the chambers for an extraordinary session"—as in July of 1914 and September of 1939 "He must convoke them if requested, in the interval between sessions, by an absolute majority of the members composing each chamber The President can adjourn the chambers Nevertheless, adjournment may not exceed the period of one month, nor may it take place more than twice in one session"

Said Article 8 "The President of the Republic negotiates and ratifies treaties He makes them known to the chambers as soon as the interest and security of the State permit Treaties of peace, of commerce, treaties involving State finance, those which have bearing upon personal rights and the property rights of Frenchmen abroad, are operative only after they have been voted upon by the two chambers No cession, exchange or acquisition of territory may take place except by virtue of a law"

This article gave the President the realest power that he had, that of secret diplomacy, both the negotiation and the publication of treaties—power that an unscrupulous or aggressive incumbent might have taken considerable advantage of [18] Poincaré, for example, always preferred to avoid a public discussion of the Russian alliance of 1894 In order to obviate the necessity of asking a democratic Parliament for the approval of an alliance with an autocracy, it was cast in the form of a military convention, signed by the two chiefs of staff This is not to imply that it was unpopular (since the French thought of it as bringing them out of their international isolation and perhaps leading to the recovery of Alsace) but that it might have been extended to cover all sorts of contingencies without the knowledge of the country The chambers, like those of the United States, had to ratify the President's declaration of war in order to make it binding, but the President of each republic might bring about a situation where the chambers have little choice

That is about all that need be said about the President of the Third Republic Less might have been said, in view of his lack of power, if it were not for both the historical and the comparative value of a full understanding of the office Not to the President were the political troubles of the Third Republic due When Lebrun showed his almost fatal indecision, the republic was already doomed Americans are apt to forget that when they commend to newer democracies the constitutional position of their executive, the other democracies have, most unaccountably, failed to follow suit The republican constitutions of Europe after the First World War, later even Ireland, followed more the French than the American model The reasons are two none have the federal and (in theory) the decentralized system of the United States, and none wish to concentrate in one man the power that the American President has grown to exercise Then, too, any increase in the power of the French President would only weaken still further the power of the cabinet, and it was and is the power and influence of the cabinet, as being more responsive to the people, which is the keystone of the French, as of the English, government system

In 1946 there was a good deal of talk, on the left, naturally, and not on the right, of eliminating entirely the office of President of the Republic It was perhaps more a question of nomenclature than of anything else Whether to continue the presidency and give him more power or to do away with him and give the titular as well as the actual power to the president of the Council of Ministers would bother the traditionalists more than the modernists It turned out that the President of the republic exercises no more power than he did before, all his acts still require countersignature

[18] Cf Art 8 of the Constitutional Act of July, 1875, with Art 21 of the constitution of 1946, which simply says "The President of the republic is kept informed of international negotiations"

## *THE COUNCIL OF MINISTERS*

Nowhere did any constitutional law of the Third Republic even mention the office which was and is superior in actual power to the President of the republic Nor was there even mention of the *Council* of Ministers (The word *cabinet*, frequently used in these pages for convenience, is hardly ever used in French ) Since there are ministers, they must have a presiding officer, that is all There was only one mention of them, in Article 6 (law of February 25, 1875) "Ministers are collectively responsible before the chambers for the general policy of the government, and individually for their personal acts" They still are

"Collectively responsible" because all bills sent to the chambers by the ministries of the Third Republic and to the National Assembly by the ministries of the Fourth Republic are the result of collective action and collective approval It is not possible, as in the United States, for a French minister merely to ask the opinion of his colleagues on a proposed measure, though the American is likely to be guided by it, and this leads to the aphorism that in France the cabinet chain is as strong as its weakest link Since the whole ministry has approved a bill, the whole ministry falls if the bill is defeated, the whole ministry falls, too, if one member of it is the victim of an interpellation which may have had a personal, even a vindictive, motive rather than one based on broader and more altruistic factors

The establishment of cabinet posts differs considerably among the three democracies It is a long and difficult process to add another portfolio to the American cabinet, the last was in 1913 The English and French are much more flexible, a post may be added or eliminated as the need arises Precedence in meetings of the American cabinet is determined by the seniority of the creation of the post, in France the man who sits next to the president of the Council is the Minister of Justice—because without justice there would be no republic Then comes the Minister of Foreign Affairs, as the next most important Often of late years the president of the Council has found that his duties as president require more of his effort than will allow for his taking also a portfolio, but in general he chooses that which is best suited to his taste or experience Thus he has generally assigned to himself Foreign Affairs (thirty-six times during the Third Republic), War, Finance, the Interior, or even less important positions

There has been a growing tendency to add ministers without portfolio—another instance of the flexibility of the French cabinet system These are generally elder statesmen whose advice and experience will make easier the passage of a bill and in general aid cabinet deliberations But more important than their opinion, free from prejudice though it is supposed to be, is the tact and judgment of the presiding officer He drives a team that is not necessarily

homogeneous in its political views It is composed of representatives not of one party, as in England and the United States, but of several, it is in a sense a coalition government even when there is no crisis He must be a general specialist, able to assure coordination between diversified departments, in theory, he is a statesman of lofty views and yet a politician of practical, even earthy, shrewdness He must have his wagon hitched to a star but must keep the wheels well greased [19]

He must also keep in close touch with the feelings and doings of the chambers He, like the other ministers, was and is a member of Parliament (although there is no law requiring it) and thus has two sets of masters—Parliament and the people of his district—whom he must satisfy He must spend as much time as possible in the Senate or Chamber (or their successors) for there is no "question period" as in the House of Commons, no regular period of an hour at the beginning of each session during which, and during which only, members of the cabinet can be questioned and heckled by their colleagues in the House of Commons The French minister cannot tell when a member will pop up with an interpellation or otherwise take a mean advantage of his absence With such worries, the wonder is that ministers can carry on two jobs, they could not without capable undersecretaries

In a sense, the English question period has its French counterpart in the interpellation This is a device, theoretically quite democratic and proper, by which the chambers exercise their right of permanent control over the government—the means by which a member compels the government to furnish explanations either of a single isolated act or of its general policy In the first case the question is directed to the appropriate minister, in the second to the president of the Council It generally becomes a free-for-all, in which many members (who may have been tipped off in advance) participate The debate is finally closed by a vote Almost invariably the motion was thus worded "The Chamber, confident in the government to assure a policy clearly republican, passes to the order of the day " If the motion does not pass, it is the signal for the cabinet to leave their seats and to proceed to the Elysée, where they give back their portfolios to an equally melancholy President of the republic

The ministry can, in a sense, bring about its own fall It can determine that a certain measure is so important that its defeat will be construed as a vote of lack of confidence in the cabinet which has proposed it The formula preferred by Briand (who, eleven times Prime Minister, should have known how to word such things) was "I have the right to conclude that if you do not wish to accept the invitation which I am extending to you, the reason is that you wish no more of this government, if so, it is time that we leave you "

[19] See Joseph A Barry, "Qualities a French Premier Must Have," *New York Times Magazine*, January 1, 1950

The short tenure—amounting to no tenure at all—of some of the ministries of the Third Republic has been the object of such general ridicule that the new constitution has tried to correct it, as will be seen But few of those scoffers directed upon the President of the republic or upon the new president of the Council the blame which they generally extended to the parliamentary system If the Chamber even refused to give a new cabinet a chance to get a start, it seems neither fair nor dignified But perhaps the President should have selected another man to head that cabinet, or the latter, when selected, was careless and unwise in choosing one or two of his colleagues

The average duration of the 100 ministries of the Third Republic was a little more than nine months, but that of the nine cabinets which preceded the Queuille ministry of September, 1948, was a little less than four months One (the second Schuman cabinet) lasted only two days, the Marie ministry, which preceded it, for only one month Often a minister thinks it not worth while to occupy his official residence These figures, on the surface, are damning, they seem to justify every criticism of instability and lead to doubt as to the ability of the Fourth Republic to solve the problem But ministerial policies, especially on matters of great national moment, do not change with every changing personality, foreign policy, matters of national defense, and financial policy cannot lightly be altered without peril Other matters, however, can be, and to the puzzlement of those concerned Education and politics should not mix, but they more than once have A few years before the second war, the Minister of Education was Victor Bérard, a humanist who overemphasized the classics in the secondary school curriculum His successor, François-Albert, was a modernist The former held to the traditional French view that Rome obtained its culture from Greece, and France is the true *continuateur* of Roman culture, it is France's duty as well as her privilege to preserve the old languages and the old cultures To which the latter replied that in that case France must fall behind in the modern scientific and industrial race, since languages must be taught, let importance be placed on the living and not the dead The resulting changes in curriculums and syllabuses were confusing to students and teachers alike and benefited none but the printers of textbooks

The apparent instability of the ministries is, however, partly compensated by the relative stability of the subordinates in each department Their chiefs are politicians and as such have to undergo the hardships of all occupational diseases, the *sous-ministres* and most of the others are apt to be career men or professionals They stay on, become used to all kinds of superior officers, and provide some of the continuity of policy and especially the basic information indispensable to the new minister Unfortunately it cannot be said of them that "their name liveth for evermore," as do Clemenceau's and Briand's, and they are probably more obscure than are their opposite numbers across the

Channel The great permanent undersecretaries of state, mostly in the Foreign Office–Lord Hardinge, Sir Eyre Crowe, Lord Vansittart, and others–have a secure place in history, but official anonymity for the most part cloaks, very unjustly, the equally important contributions of many underlings in various French ministries

It can hardly be otherwise, whatever one may think of the resulting efficiency, or lack of it The members of the cabinet are, through the intermediary of Parliament, delegates of the nation placed in temporary administrative positions and there to carry out the orders of Parliament, consequently they must be politicians (and the word is used with no such connotation of dishonesty, bad motives, or incompetence as is too often attached to it) In the United States the President is the first representative of the nation, the ministers are his choices, responsible not to Congress but to him In France, Parliament collectively is the first representative of the nation, and the ministers in practice must be members of Parliament Expert critics do not decry the system as much as does the man on the street It is human imperfection, rather than the political theory, which has been at fault Imperial Germany was under the thumb of functionaries, that helped her to achieve an incontestable superiority in administrative techniques On the other hand, she committed the most serious political and moral blunders Germany had prepared what seemed to be infallible projects of armament, equipment, strategy of invasion, but, through her political blunders, she raised against herself England, Italy, America, the entire world Daily her newspapers deplored her lack of statesmen and openly declared that they envied leaders like Clemenceau and Briand "Special aptitude," wrote Mirabeau, "suffices for good clerks, but the best clerks are the most detestable of ministers"

Hardly ever have the great diplomatic posts in France been given as the reward for service in party politics, more seldom still for large gifts to the party chest It is to the parties on the right, of course, in France as in every country, that the large gifts come, and the parties of the right have seldom of late had power, so that necessarily ambassadors for the most part have come from the center or left blocs The emphasis has been on purely intellectual characteristics, whether or not he is a career man, from the historian Jusserand (who represented France at Washington for twenty years) to the brothers Cambon–one at London, the other at Berlin–to Barrère at Rome, down to today A recent reviewer of François-Poncet's *The Fateful Years Memoirs of a French Ambassador at Berlin, 1931–1938* says of him that "he is the average–and it is a very high average–French career diplomatist" Henri Queuille, Premier in 1948–1949, is a physician, who had his political experience mostly in the various Ministries of Agriculture The same education and the same habits, Plato pointed out, will be found to make a good man and a good statesman

*THE SENATE, AND THE PRESENT COUNCIL OF THE REPUBLIC*

The constitutional role of the Senate, and of its successor the Council of the Republic, is like that of any upper house one of moderation, tradition, stability The Senate, like the House of Lords, was called the upper house by courtesy only What power it had was derived to a considerable extent from the constitutional pattern of England and the United States The French Senate, like the American, had no power of initiating financial measures and accepted, though not without much talk, the budget voted by the Chamber [20] Further resembling upper houses, the Senate could constitute itself a high court of justice, and this has been done considerably more often than in the United States Several ministers (notably Boulanger, Malvy, and even Caillaux) accused of crimes committed during their incumbency have been tried by the Senate

The Senate could not be dissolved Its 314 members enjoyed (and it was literally true) a nine-year term The senators of each *département* were elected by an electoral college which met in the capital (*chef-lieu*) of the *département* and included the deputies of the *département*, the members of the general council charged with administering the *département*, the members of the councils of the *arrondissements* (administrative divisions of the *départements*), and delegates from the municipal councils

For a good many years the Senate was satisfied to accept a position of practical though not theoretical inequality Whether the constitution meant it to be inferior is another matter, probably its framers, being conservative, had no such intention The importance of the Senate was of course much more potential than actual It threw out only four ministries, three of them during the twenties and thirties Jean Zay reflects, lying in his dungeon, sadly but constructively on the defects of the Third Republic, and says of the Senate that "the greatest reproach which it incurred between the two wars was not that of having caused two or three cabinet crises but of appearing as the citadel of social conservatism and especially of impeding by its delays—when they were not actually obstructions—certain urgent reforms to which it consented later only under great pressure The Chamber counted too much on the Senate to revise its votes if they proved to be unwise, the Senate unduly distrusted the Chamber If there is to be a Senate in the future republic it can borrow much from its predecessor " [21]

[20] The Chamber had gotten into the inconsiderate habit of postponing until within a few hours of its adjournment the final vote on the budget, with the result that the Senate, in order not to begin the year budgetless was forced to accept it with only minor modifications, while voicing protests as vain as they were regular

[21] *Souvenirs et Solitudes* (Paris, 1945), p 399 Zay, an educational and social reformer of the first importance, was Minister of Education at the outbreak of the war and resigned to enlist He was assassinated by the Vichy militia in June, 1944

During the latter years of its life there was a certain sense of rebellion, or at least of frustration, among many senators They began to exert a growing sense of their power by throwing out ministries, but they did so partly because these ministries were too radical for their taste, partly because they wanted to show the deputies that the game could be played by two as well as one During the thirties the influence if not the power of the Senate was growing, certainly in the minds of those who were tired of the constantly changing ministries, a situation for which the Chamber more often than the Senate was to blame

When the constitutional ideas of the Fourth Republic began to take shape, the question was early asked why two houses? Why not go completely modern, is not bicameralism out of date? As usual, the answer was a compromise Because the Communists wanted unicameralism, thinking that they could control it, all the other parties agreed upon the iniquity of it, an upper house shorn of the power enjoyed by the old Senate is simply a French version of the House of Lords [22] Without the power to overturn ministries, with only a two-month veto power of new laws, the legislative powers of the Council of the Republic are almost entirely advisory It can propose legislation, and bills which it introduces are sent politely to the National Assembly, but if the latter shelves them, they are not sent back for rewording or reconsideration, they are not referred to a joint committee for compromise, the Council cannot even discuss them, all their discussing has been already done It cannot even send over money bills—which of course is a very large brake on its power If it is a mere debating club, without any power to speak of, what good is it, is it not an encumbrance, a fifth wheel? Sometimes a fifth wheel, if it has a spare tire, has its uses, and the carefully considered opinions of the older and more experienced men who presumably constitute the membership of any upper house may curb hasty and careless legislation The final passage of the bills enacted by the National Assembly may be held up for a rather considerable period, since all its bills are sent over to the Council for its opinion, and that body may if it chooses deliberate for as long as two months This may on the face of things seem to slow down action too drastically, but certain bills, such as financial and other emergency measures, may be certified as requiring speedier deliberation, and even in the case of ordinary, certainly most routine, bills, the Council is not apt to take all the time that it is legally entitled to The bill automatically becomes law under either of two conditions (1) as soon as the Council accepts the bill, or (2) if two months elapse without action of the Council What, on the other hand, if the Council returns the bills with its disapproval? Then, after considering the recommendations of the Council, the National Assembly votes once more, this time by an absolute majority

[22] The House of Lords can hold up a law passed by the Commons for one year only (from 1911 to 1949 it was two years)

The Council's place in the legislative machinery is, then, one of little significance Its members have longer terms than those of the National Assembly and in that respect are again similar to the senators of the Third Republic The members of the Council are elected, for six years, by very much the same procedure as were the senators On the whole, the Senate was far more important, constitutionally at least, than the Council of the Fourth Republic Nevertheless, it is a most interesting experiment and is a striking example of both the necessity and the workability of constitutional compromise

## *THE CHAMBER OF DEPUTIES, AND THE PRESENT NATIONAL ASSEMBLY*

In 1939 there were 618 deputies [23] This compares with 625 in the House of Commons (according to the act of 1949) and 435 in the House of Representatives The country was divided into electoral districts (*circonscriptions*), each returning one deputy, excepting those of a population exceeding 100,000, which were divided into two single-chamber constituencies, or into three if the population exceeded 200,000, and so on After each quinquennial census, if an *arrondissement* returning one member was found to contain over 100,000 inhabitants, it was divided into *circonscriptions*, or, if an *arrondissement*, hitherto divided into two, had no longer that population, one of its members was taken away

The Chamber alone represented direct male suffrage, for it was elected every four years by secret vote Two special electoral arrangements are interesting the method of second ballot and the method of single-member constituencies (*scrutin uninominal*) The former lasted throughout the republic, the latter remained very contentious and frequently changing By the system of second ballot no deputy could be elected on the first ballot unless he had gained a clear majority of the votes registered, and also at least one-quarter of the voters registered If he failed to qualify on either of these grounds, a second ballot (run-off election) was held a week later for the two highest candidates, when a simple majority sufficed Virtually the same law governs elections to the National Assembly, the successor of the Chamber of Deputies

The issue of *scrutin uninominal* versus *scrutin de liste* [24] tremendously excited the constitution makers of 1875, and although the former won, its victory was not permanent The liberal republicans and their allies wanted to make the *département* and not the individual the unit of voting, arguing that *scrutin de liste* (collective voting of all *arrondissements* in one department for a party

[23] In the Fourth Republic there are 619 members of the National Assembly The *départements* of continental (metropolitan) France and of Guadeloupe, Martinique, Guiana, and Réunion elect 554, Algeria 30, overseas territories 35

[24] For a brief, clear contrast of the two systems see J P T Bury, *France 1815-1940* (Philadelphia, 1949), pp 172-173, also *Encyclopédie Politique de la France et du Monde* (Paris, n d ) [1949], pp 146-150, which also discusses "P R."

list) would give the deputy greater independence The system prevailing just before the second war was the *scrutin uninominal* Its place was taken by a modified form of the *scrutin de liste*, the electoral law of October 5, 1946 established a method of proportional representation which, in fact, permits the party leaders—the "machine"—to designate whomever they wish as both deputies and councilors The voter votes for the party and the party designates those elected The voter must take, or leave, the entire list drawn up by the party All he can do is to change the order in which the names appear, but any alteration of that sort is valid only if 10 percent of the voters propose the same change "P R " was one of the main causes of the downfall of the Weimar Republic, it has lost ground in the United States Yet it seems democratic since each segment of opinion is fairly represented according to its total popular vote If it does not work in the United States where minor parties are neither numerous nor important, it is hard to understand how a transformation as radical as this could have occurred in a country where the existence of a half-score of parties would lead to confusion worse confounded It emphasizes party loyalty at the expense of individual liberty The argument (mentioned above) that it would give the deputy greater independence is true only in theory, in fact, he has less, since, during the last three years or so, he has come to be more and not less obedient to party orders Its only merit may prove to be the concentration of many weak parties into three or four blocs That would more than balance its defects

We come now to the chief contrast between the powers of the Chamber of the Third Republic and those of the National Assembly of the Fourth The Assembly, as we have seen, still has the right to overturn ministries, but, says Article 49 of the constitution, "The vote on a question of confidence may not take place until a whole day after it has been placed before the Assembly " This not too great brake on impulsive action has not deterred the Assembly from overturning eight ministries in two years There is still another deterrent —on paper Article 51 states that if in a period of eighteen consecutive months "two ministerial crises occur the dissolution of the National Assembly may be decided by the Cabinet according to the advice of the president of the Assembly " Article 52 "In case of dissolution, the cabinet, except the Premier and the Minister of the Interior, remains in office for the dispatch of current affairs The President of the republic designates the president of the National Assembly as Premier The latter designates a new Minister of the Interior General elections take place at least twenty days and not more than thirty days after the dissolution "

These articles do several interesting things It will be seen that in case of dissolution the President of the Fourth Republic is deprived of the power held by his predecessor of designating the Premier, it is now automatic On the other hand, he cannot remain long in office, from twenty to thirty days only Why is another exception made in favor of the Minister of the

Interior, why is he considered so important as to be specifically named? Simply because he controls the forces of law and order, and it is quite conceivable that a dissolution of the Assembly might be accompanied by a certain amount of rioting Moreover, he controls the election machinery But all this discussion is to a large degree purely verbal There is as yet little reason to think that such a drastic step as dissolution, which occurred only once in the history of the Third Republic,[25] will be taken much oftener in the Fourth

[25] On May 16, 1877, MacMahon's action was so arbitrary as to prove a boomerang At the ensuing election the voters returned the ministers whom he had ousted and the whole affair was the principal cause of his resignation

Chapter 17

# *Political and Public Institutions*

## *ADMINISTRATION AND LOCAL GOVERNMENT*

MUCH has been said in the preceding pages of the bureaucracy and highly centralized government of the Third Republic Of this there seems to be little changed in the corresponding institutions and ideas of the Fourth Republic Many more Frenchmen were in the service of the state than Americans or Britishers, toward the end of its life the Third Republic employed about one to every forty-six inhabitants[1] Poorly paid, though they were, most of them preferred it because of the security it promised, both for their present employment and for their pensions in old age The greater number of them are in theory appointed by the Ministry of the Interior, with all that that involves of patronage and power over a well-oiled machine In like way the Minister of Education appoints all the teachers in France, from elementary school to university, the Minister of Communications (or whatever may be the title of the moment—it used to be Posts, Telephones, and Telegraphs) appoints an enormous number of subordinates

Bismarck adopted his far-reaching policy of social legislation, beginning in 1881, partly, at least, to attach the proletariat to the state This seemed to him advisable, perhaps necessary, in the case of a newly established government which had been reluctantly accepted by many non-Prussians In the case of France, such dependence on the state goes back, like most great social ideas, to the Revolution Centralization seemed necessary socially as well as politically If one thought of himself first as a Breton or Provençal rather than a Frenchman, the unity and solidarity which were among the foundations of the great upheaval would be impossible So he would be weaned away from his provincial to a national loyalty by devices and appeals to self-interest

[1] By 1946 the number of state employees had grown enormously, to a total of 1,017,170, an increase of 37 percent over 1938 It should be noted, however, that the increases were largely in the teaching ranks (32,000 more) and in other departments, such as Health, and Foreign Affairs, where new services required more employees On March 1, 1949, the census of the French Institute of Statistics showed the number of civil servants and state workers to be 1,010,000 *Encyclopedie Politique de France et du Monde* (Paris, n d ) (1949), vol 1, annexe iv (p 266)

as well as by calls of duty and patriotism The very name of Brittany would disappear, to be replaced by five or six *départements*, nearly equal in size But there were many valid reasons for the change, it was not so important to eliminate the name Brittany as it was to do away with the old subdivisions of the province associated with feudal abuses and monarchical inefficiency Local self-government never developed in France as in England and America, whenever it threatened to do so it was controlled by the creation of a new or stronger set of superior central agents The prefect of the *département* in many cases has no ties or previous association with the unit over which he is appointed from Paris to rule He is the *alter ego* of the Minister of the Interior In a great public ceremony in any large town, he who addresses the audience begins by first saluting *M le Préfet* (because he represents the state), and after him *M le Maire*, and then, in whatever order he chooses, *M le Général*, *M l'Evêque*, *M le Recteur*, if the general commanding the division or corps, the bishop of the diocese, the rector of the university are all there—which since the separation of church and state does not occur very often

The *département* is divided into several *arrondissements*, 279 for the whole of the country, over each of which the prefect has appointed a subprefect, who reports directly to the prefect regarding not only the commercial and political conditions of his tiny realm but its social and religious and educational sentiments Next come the *cantons*, possibly a dozen in each *arrondissement* Their chief interest perhaps lies in their use as electoral districts, which return to the *département* its general council We come finally to the *commune*, the basis of rural life, corresponding to the town or township as understood in most of the United States Legally, however, it is as much urban as rural, it may be as large as Paris or as small as an Alpine hamlet It has a communal council, varying in size from ten to thirty-six members, unpaid, elected for four years, and themselves electing their mayor (who should not be confused with the mayor of a town) This gentleman takes himself perhaps even more seriously than do most French functionaries He has administrative duties both as the agent of the central government, carrying out the orders of the prefect, and as the executive in matters falling within the sphere of the communal council Subject to the approval of the prefect the council has a general management of local affairs The mayor of a commune used to rely on the advice of the village curé, who exercised very real influence, social and political as well as spiritual, in a small town, but as the latter's importance waned, it was largely assumed by the village schoolmaster, who, if the mayor is imperfectly educated, is likely to be his mentor

The one city that has no mayor is Paris The commune of Paris is a thing by itself One might say that the functions of the mayor in other towns are so complicated in Paris that they must be assumed by three men—the chairman of the council, the prefect of the Department of the Seine, and the prefect of

police Each man has well-defined duties but the chairman of the Paris council may be properly compared in practical importance rather to the President of the republic than to a minister or a prefect, he presides, and that is about all Mindful as we are that the life of Paris is historically so agitated that the municipality cannot safely be given much local independence, we must not also forget that its territory is immense Corresponding roughly to the boroughs of Greater New York are twenty *arrondissements* or wards, over each of which is a mayor, appointed by the central government and responsible to whichever of the three officials named above is appropriate to the matter in hand

During and shortly after the First World War there arose a movement called regionalism, aiming at the division of the country into a rather small number of areas to be formed by grouping *départements* on geographical lines in accordance with their respective economic interests and historical traditions, and proposing to confer upon each area a measure of local autonomy sufficient to relieve the central government of many functions Lord Bryce, writing in 1920,[2] seemed to like the idea, but since then public opinion has leaned to the view that centralized government can hardly now be changed, even to such a rather mild extent, without untying so many administrative strings as to vitiate whatever value the scheme might have To be sure, it would emphasize the interesting cultural contributions of the races making up the French melting pot, but they already have plenty of outlets and hardly need governmental encouragement The scheme was such a convenient and obvious divisive factor that it was favored by the Germans when they were occupying the greater part of France during two wars Their favor put the finishing touches to it The Fourth Republic did not seriously debate it, although some administrative experts were attracted by the enhanced efficiency and economy which would probably result if several of the smaller *départements* could be thrown together into regions, as already function in the administration of the army, the judiciary, and education (seventeen *académies*, described later in this chapter) Raoul Blanchard, one of the most eminent of French geographers, has taken the lead in proposing a new division of the territory which combines the eighty-three *départements* into forty-seven Michel Debre's *La Mort de l'Etat Républicain* (Paris, 1947) provides a map and a full discussion of the problem

## *BUREAUCRACY, ETATISME*

A concomitant of centralization is expressed by an almost untranslatable word, *etatisme* It is equally hard to define succinctly It means concern for law and order, stable government and efficient administration, impatience with political controversy, a longing to lift government out of politics and provide regular administration by technicians In a sense it is antidemocratic,

[2] *Modern Democracies*, vol 1

but only because it is in a larger sense anti-individualistic From a vague philosophical ambiguity it has developed to an insistence upon a civil service divorced from politics Politicians, however, have power, coupled too often with a deft, shrewd, unscrupulous use of it against which the honest, hard-working, unimaginative functionary struggles in vain If he gives up, he falls into a rut, if he resists, he may be broken Often, however, especially during the colonial expansion of the Third Republic, he solicited a transfer to places where he would feel (if not actually be) freer, or oftener yet, he would be in his early career attracted by the immense possibilities of colonial administration and, after intensive training, spend the rest of his life far from the distractions and worries of home politics [3] Such were Sarraut (for a few years) in Indo-China, Carde in Senegal, Delafose in West Africa, down to one of the greatest and most interesting of all, Eboué, the Negro governor general of French Equatorial Africa until his untimely death in 1944 [4]

Paralleling to some extent the Colonial School is the newly established National School of Administration, which has caused profound changes in the principles and methods by which civil servants are recruited Before the creation in 1945 of the National School, civil servants destined for positions in the highest grades of public service—administration of prefectures, diplomacy, etc—were chosen on the basis of competitive examinations whose organization, conditions, and principles were established by each administrative unit without consultation with each other The diversity of the competitive examinations led to the rise of privileged groups within the service, a situation often denounced as antirepublican in spirit And while the French civil service enjoyed an excellent reputation for its intellectual and cultural level, it was criticized for certain archaic and retrograde features The great number of competitive examinations prevented the democratization of the service by reserving it for privileged groups—privileged by reason of the nature of the entrance requirements Creation of the school has radically changed the social and political aspect of the recruitment of French public servants Henceforth, studies at this school are the only prerequisite for entrance into the upper grades of the service

The school's theoretical education is combined with periods of internship As early as the first year students are sent as interns to different posts outside Paris or even France, they are placed in an atmosphere of administrative work which acquaints them with human realities The scheme represents a notable reform in the teaching of political science as intellectual discipline, as well as practical training Before 1945 the social and political sciences had been divided in somewhat arbitrary fashion between the faculties of law and letters

[3] See supra, pp 348 et seq

[4] His body and that of Victor Schoelker, author of the law of 1848 abolishing slavery in the colonies, were interred in the Pantheon in 1949 in a symbolic double ceremony honoring these two great champions of human freedom

economics being taught by the former, the others by the latter What is called government in the United States was part of only a one-semester course in constitutional law, required of all first-year students by the faculty of law A graduate in law approached political life solely from a narrow legal standpoint On the other hand, the student in letters knew social or political history but, with rare exceptions, had no acquaintance with the constitutional and legislative mechanism of modern diplomacy The only place where the social and political sciences were taught as parts of a whole was a semiprivate institution, the famous Ecole Libre des Sciences Politiques This has now been incorporated into the University of Paris, and the new National School of Administration not only concerns itself with legal and administrative subjects but places the political and social sciences in the general framework of modern civilization by building upon a cultural basis of philosophy and history [5]

One of the traditional functions of the centralized French state which has become thoroughly ingrained in its democratic as well as in its monarchical structure has been its patronage of the fine arts The state maintains the chief libraries and almost all the museums, it builds and partly subsidizes the opera houses and many theaters, furthermore, it keeps in repair a large number of ecclesiastical structures, even though they may be still used for worship, if they are of sufficient historical or artistic importance Does such provision for the fine arts involve a control of one of the most uncontrollable things in life? Not necessarily Not often are works of art commissioned by the state, as Napoleon ordered them for his glorification—with generally unfortunate results for art Works of art are purchased by the state, but those who buy them endeavor honestly to secure representation of all schools of art, and it is quite possible that the collective opinion of a commission appointed by the Minister of Fine Arts may be as valid as that of any private expert

## *DREYFUS AND ANTI-SEMITISM*

What little anti-Semitism there was in France was, of course, foreign to the naturally hospitable, kindly, tolerant French temperament It had to be brought in, cleverly disguised The cloak with which it tried to hide itself was called nationalism Leader of the anti-Semitic forces was Edouard Drumont (1844-1917), who year in and year out in his newspaper *La Libre Parole* and his magazine *La France Juive* maintained "The nation cannot be homogeneous as long as persons who must fatally remain alien to it are allowed to dwell in its midst"

Alfred Dreyfus was the first Jew to enter the general staff of the army He

[5] For a fuller description of the training of civil servants see, B Mirkine-Guetzévitch, *The National School of Administration in France*, "American Political Science Review," 43 1026-1030 (October 1949), from which much of the above has been adapted, and Michel Debre, *La Mort de l'Etat Republicain* (Paris, 1947), pp 124-141

was able, energetic, and intelligent, but he knew it, he was well-to-do and happily married His family had emigrated from Alsace after 1871 He had a great deal to lose by turning traitor and nothing to gain But it was he whom destiny selected to rise from obscurity to a living martyrdom and to become for all time a symbol not only of man's inhumanity to man but of colossal injustice on a national scale By a court-martial, sitting in camera, he was tried and sentenced, in December, 1894, on a charge of selling staff secrets to the German military attaché and was sent to solitary imprisonment for life to Devil's Island There he remained for five years, but it did not need that time for doubts to arise about his guilt in the minds of those who had been profoundly troubled by the apparent absence of motive So France, until the final settlement of the case in 1906, became divided into two camps, those who insisted upon a revision of the case and those who would not have it, and the bitterness of their feelings lasted long after 1906

In the eyes of the antirevisionists—the army high-ups, the church hierarchy, remnants of the monarchists—there was no value higher than national interest The term *nationalist* which was then making its first appearance in political and literary vocabulary proves it What, asked the nationalists, what in effect were Dreyfus' friends doing? Why, they were weakening France by shaking the confidence of the people in the heads of the army, sapping the authority of the councils of war, by depreciating, even directly and violently, the traditionally respected military virtues and values Many thought that such an idea could only have been conceived by foreigners and Jews, perhaps French legally but racially foreigners What the antirevisionists wanted to maintain, without reference to *l'affaire*, was the prestige of the authorities—of all those whom custom or law had invested with special power of decision and hence a particular responsibility To submit them to the control of popular opinion, whether exercised by the masses, by intellectuals, or by journalists would be to fall into anarchy The authority which it was now necessary to preserve was no longer that of the King or the church or even the nobles, but that of the army chiefs In a country where dynastic loyalty had almost disappeared, where laicism had won many strongholds, where the *nouveaux riches* were occupying so many new positions of power, but where patriotism had remained vibrant and sympathy for the army was general, they hoped that the military terrain would furnish the best point of departure for attempting the general restoration of the prestige of the old social authorities Royalists and clericals were not mistaken, all that survived of the former, all of the latter that aspired to a political role, took sides against the revision, along with the nationalists and militarists

The character of the revisionists took on a certain homogeneity, since they were largely composed of liberals, most of them professors and writers (of whom Clemenceau, Zola, and Anatole France were the most conspicu-

ous) [6] Politicians, men of the world, thought it a little dangerous to recognize not only the humanitarianism but the energy, the clear-sightedness, and the efficiency of those people, coming out of their ivory tower thus threateningly But it was especially against the revisionists' conception of the individual, of justice and liberty, that their adversaries united Was it proper to trouble so profoundly the social order and to endanger the national unity merely to see that a single person did not suffer punishment, undeserved though it might be? Such was the moral problem posed by *l'affaire* Translated into a world sphere, it was the equivalent of a Baldwin's or a Chamberlain's asking if the fate of an Ethiopia should involve all Europe in war

Dreyfus received a second trial in 1899 but it produced little that was new. The trial dragged on for weeks, but when the time came to decide it took the seven judges only an hour to make up their minds by five to two they found Dreyfus guilty, but with extenuating circumstances, and they reduced the penalty from life to ten years It was an absurd decision, for if he were guilty there could hardly be extenuating circumstances To end the scandal and the dissension, it was resolved to pardon Dreyfus, though his supporters, maintaining that to seek a pardon was to acknowledge guilt, opposed it His guilt, the existence of a conspiracy of Jews and foreign powers to ruin France, were still articles of political faith for hundreds of thousands But at last, in 1906, the conviction was quashed, this time by the civilian Court of Cassation He was restored to the army, promoted, and given the Legion of Honor

If the French people showed in each national election its unbreakable attachment to the republic, the antirepublican forces, up to 1940, never ceased struggling They were numerically weak but financially strong, a minority active and tenacious The part which the church played in *l'affaire* proved to be a boomerang and had something to do with the mounting suspicion of its republicanism which came to a head, at about the time of Dreyfus' second trial, in the agitation for the abrogation of the Concordat [7]

[6] Among the great writers who saw in *l'affaire* a special religious significance was the mystic poet Charles Peguy (killed in the Battle of the Marne, 1914) His chief passion was to prevent his country from committing mortal sin and incurring the most dreadful of moral responsibilities by allowing an innocent man to expiate another's crime

[7] The literature of the Dreyfus case is enormous D W Brogan, *France Under the Republic* (New York, 1940), has perhaps the best summary of it, in about fifty pages, but no reference has been made to it in the above pages Two of the best of the shorter books in English are W Herzog, *Dreyfus to Petain* (New York, 1947), and W Stcinthal, *Dreyfus* (London, 1930) Dreyfus' own story has been published *The Dreyfus Case by the Man Alfred Dreyfus and His Son Pierre Dreyfus*, edited by D C McKay (New Haven, 1937), it contains Dreyfus' autobiography from 1894 to 1906, consisting of about 100 pages, preceded by his son's 132-page summary of *l'affaire* and followed by a brief sketch of the elder's career until his death in 1935 It is a translation of Alfred Dreyfus, *Souvenirs et Correspondance* (Paris, 1936) The question may be asked as to the attitude of the German military attaché He could have, if he wished, exculpated Dreyfus by stat-

## *CHURCH AND STATE*

Until 1905 the Third Republic, increasingly liberal though it was, maintained with the Vatican the relations ordained in the Concordat of 1801 The abrogation of the Concordat was the first serious breach made in the administrative fabric constructed by Napoleon Well he knew that the religious problem in France takes the form of an alternative between Catholicism and unbelief, no churchman himself, he knew that unbelief in religion would lead to skepticism in everything else, including his own dictatorship The four monarchs who followed him agreed with him, and his nephew, who as President restored the Pope to Rome after the Roman republic of 1849 had expelled him, as Emperor kept him there for the next twenty years by means of a French garrison It was natural enough that the majority of the French clergy, especially the hierarchy, should be antirepublican This opposition abated somewhat after 1890 [8] but continued in many respects until the First World War The separation was one of the great crises of the republic, the others being General Boulanger's attempt (which never came off) to unseat the republic in the late eighties,[9] the Panama financial scandals of the early nineties, [10] and the Dreyfus affair Church and state, and Dreyfus, outshadowed the other two in the rift which they caused in French society

The question will quite properly be raised as to how the church could continue to be antirepublican in face of the pronouncements just quoted in a footnote, and when there was no longer any hope of a monarchical restoration Was not such an attitude unrealistic, short-sighted, and disobedient? But in the minds of the hierarchy there was more than one kind of republic A socialist republic would deprive the church of much of its strength since socialism would affect the morale of the two greatest of the church's strong-

ing that he had bought no secrets from him On this point see *Les Carnets de Schwartzkoppen* (Paris, n d ) (1930), where the attache practically says, on his deathbed, that he was forbidden by the Kaiser to have anything to do with the case

[8] In his encyclical *Sapientiae Christianae* Leo XIII, taking his stand on the Thomistic distinction between primary and secondary causes, arrived at the conclusion that the form of government was not in itself a matter upon the value of which the church was called upon to pronounce judgment It is not her province "to decide which is the best among many diverse forms of government and the civil institutions of Christian states, and amid the various kinds of state rule she does not disapprove of any, provided the respect due to religion and the observance of good morals be upheld" Cardinal Lavigerie, amid the strains of the revolutionary "Marseillaise," gave at the same time an address to the officers of the squadron visiting Algiers in which he summoned all French Catholics to submit to the form of government which the nation had now finally accepted

[9] See Herbert Gorman, *Brave General* (New York, 1942), a substantial and authoritative, though fictionalized, life of Boulanger, Brogan, *op cit*, bk iv, Jules Bertaut, *Paris, 1870-1935* (translation of *L'Opinion et les Mœurs sous la Troisieme République)* (London, 1936), chap 6, Bruno Weil, *Grandeur et Décadence du General Boulanger* (Paris, 1931), Adrien Dansette, *Le Boulangisme* (Paris, 1938)

[10] See Brogan, *op cit*, bk vi, Bertaut, *op cit*, chap 8

holds (outside the decreasing aristocracy)—the army and the peasantry So a liberal, certainly a socialist, republic must be opposed But although there was still no possibility of a thoroughgoing socialist government, the ministries at the turn of the century were successively liberal They were not speedily thrown out, and when they were, it was not on the religious issue, they reflected popular opinion The nationalist writer Maurice Barrès was realistic when he said, "I am an atheist but of course I am a Catholic " Even the outward observance of form was largely lacking, millions, like Barrès, respected the Catholic tradition and heritage [11] but its actual worship touched them little, the intelligentsia hardly at all

Under the Concordat the republic was paying salaries to its open enemies, and to a fanatical anti-Catholic (Premier Combes) was, under the Concordat, entrusted the selection of bishops The Pope was morally justified in wishing to end this situation, and for a while the Holy See refused to confirm Combes' appointees Before many years a large number of the bishoprics of France would have become vacant Outmoded, the Concordat was breaking down The law which took its place (July, 1905) provided liberal pensions for aged priests but ceased to pay salaries to the clergy, church property, hitherto maintained by the government, would be turned over to the parishes, organized into "associations for public worship" which the priests were free to compose exactly as they saw fit The new regime, which safeguarded the dignity, the discipline, even the material interests of the church, was more liberal than the one Rome had recently accepted from Prussia The bulk of French Catholics were willing to give the law a fair trial Most of the Deputies (certainly those of middle age and up) had been educated in church schools, which had, up to twenty years before this time, a practical monopoly of elementary education Yet these were the men who voted for separation

The abrogation of the Concordat was accompanied by other laws aimed not at churches or the hierarchy but at the religious orders The Associations Act of the Waldeck-Rousseau ministry required all congregations of monks and nuns to secure an authorization to continue their work and to maintain their buildings, and that could be given not by a minister but only by an act of Parliament The orders were suspect for reasons economic, political, and educational During fifty years their property had increased from 50,000,000 francs to more than 5,000,000,000 and it was beginning, said the government, to disturb the national economy, then, too, maintained the government, their educational methods, where not actually antirepublican, were out of date

[11] The great historian Fustel de Coulanges (1830-1889) said "I desire a service which conforms to French usage, that is, a church service I am neither a practising nor a believing churchman, but I must remember that I was born in the Catholic religion and that those who preceded me were also Catholics Patriotism requires that if one does not think as others do, at least one respect what they have thought" E Champion, *Les Idees de Fustel de Coulanges* (Paris, 1903), p 26

Those orders which, upon investigation, failed to receive authorization were to be dissolved and their property confiscated Few applied Most of those which did were refused, and either went out of existence or transferred their headquarters to Spain, Belgium, or England In some cases a good deal of violence had to be used in closing buildings and expelling their occupants, violence unwise though perhaps necessary if the law was to be complied with Although those religious orders which still exist can no longer carry on educational work, that does not mean that education in church schools is ended, as the next section will show

At first the church was stunned at what it called the lack of loyalty and courage of its children for permitting such a blow to its prestige and power, but soon it showed its traditional resiliency and suppleness The long pontificate of Leo XIII ended in 1903 His successors were careful to appoint to French sees and cardinalates Frenchmen who were not aristocrats but largely men of the people, who knew the temper of the times It was they, for instance, who persuaded Pius XI to break the last ties between the throne and the altar by excommunicating the *Action française* group (see p 308), and the Archbishop of Paris even officiated, in 1932, at the funeral of Aristide Briand, author of the separation law France and the Vatican renewed diplomatic relations soon after the first war, but even Pétain did not try to renew the Concordat, though he did give financial aid to certain orders [12]

## *EDUCATION*

Control over education is obviously a very necessary function of the centralized state Said Napoleon I "There will never be fixity in policies if there is not a teaching body with fixed principles As long as people do not from their infancy learn whether they ought to be republicans or monarchists, Catholics or sceptics, the State will never form a nation it will rest on unsafe and shifting foundations, always exposed to changes and disorders"

And so the University of France was founded It is like the University of the State of New York, which had preceded it by a dozen years and which may have lent Napoleon many of his administrative ideas, in that it was and

[12] Brogin, oddly enough, has inadequate treatment of church and state For interesting chapters on religion see E R Curtius, *The Civilization of France* (London, 1932), Roger Saltau, *French Political Thought in the Nineteenth Century* (London, 1931), A L Guerard, *French Civilization in the Nineteenth Century* (New York, 1914) See also W J S Simpson, *Religious Thought in France in the XIXth Century* (London, 1935) In French the most recent and perhaps the most authoritative account of the whole issue is Paul Raphael, *La Republique et l'Eglise Romaine* (Paris, 1948) See also Paul Reynaud, *Waldeck-Rousseau* (Paris, 1913) A standard but older work is Debidour's *L'Eglise Catholique et l'Etat en France sous la IIIe Republique* (Paris, 1909) The Catholic point of view has been recently and well presented in J V Ducatillon, "Le Problème Religieux en France sous la IIIe Republique," in *L'Oeuvre de la IIIe Republique* (Montreal, 1945), and in François Mauriac, "La Foi Française," in *La France Immortelle*, edited by Louis Madelin and copiously illustrated (Paris, 1946), vol 1

still is the sum total of all teaching bodies of the nation, from elementary school to university The local centers of the new institution were called academies, and there are seventeen of them, each presided over by a rector who is also head of the university which is the capstone of all the schools in his district The grand master of the University of France is the Minister of Education "No country in the world," says Carlton J H Hayes, "has a more highly centralized and autocratic system of national education than France " [13]

Surprisingly late, indeed, was France in giving herself the democratic principles of education which the United States has regarded as fundamental since its foundation But not so surprising when it is recalled that France was not theoretically a republic until 1870 and not actually a republic until the fall of MacMahon in 1879 Jules Ferry has two great but very different claims to fame [14] Not only was he, more than anyone else, the founder of the French colonial empire but he was an educational reformer of the first importance It was primarily due to him that from 1881 to 1883 three laws were passed (1) establishing free elementary education, (2) requiring attendance between the ages of six and thirteen, and (3) abolishing religious instruction in the public schools It is true that there are private schools in France—free schools as they are called These are mainly Catholic, and parents may comply with the law by sending their children between the ages of six and thirteen to private rather than to public school "However, the 'free' schools are not entirely free of state direction and control The state prescribes the educational qualifications of their teachers, forbids (since 1904) members of religious orders to teach in them, exercises a censorship over their textbooks, and in general supervises all their activities In the free schools, unlike the state public schools, religious instruction may be given, but even in the matter of the catechisms the Minister of Public Education has power to interfere and has actually employed his authority to ban particular catechisms " [15] In 1948 there were in the government primary schools 4,266,636 pupils and in the church primary schools 955,641, or 18 percent of the total In government secondary schools there were, in 1947, 400,000, in church secondary schools 321,956 The latter had increased to that figure from the approximately normal number of 163,750 in 1941 as a result, probably, of the lack of space in the public schools

Centralized control goes further than this The minister not only appoints the rectors but—in theory at least—appoints every other teacher Inspectors continually visit all units of the various academies, the hundreds of thousands

[13] *France a Nation of Patriots* (New York, 1930), p 36

[14] Oddly enough, there is no satisfactory life of Ferry in English Reference is made in the section on colonies to a useful book in English on his ideas about imperialism An excellent recent treatment of his whole career is by Maurice Reclus, *Jules Ferry, 1832-1893* (Paris, 1947) See also Froment-Guieysse, *Jules Ferry* (Paris, 1937)

[15] Hayes, *op cit*, p 37

of their reports were among the papers not burned by the government when it abandoned Paris in June, 1940 No degrees are granted except by the state None can teach at various levels without the appropriate degree, and in the case of many of both the higher and lower degrees examinations are competitive, since a successful candidate has the right to a settled post under the state In many ways French degrees, then, are an equivalent of the American civil service examinations Every time there is an examination (*concours*, in this case) only as many candidates pass as there are vacant positions for them The *agrégation* (*agrégé* "admitted" to teach, in a university) is a *concours*, the doctorate [16] is not The degree of *licencié* (corresponding roughly to the Master of Arts) qualifies (licenses) the holder to teach at a level below the university

All this was very highly specialized, producing scholars and researchers of the greatest distinction, a tremendous contrast to the American laissez-faire system, which, far from restricting the number of university students to those supposed to be able really to profit by such training (a number which in France varied before the war from 60,000 to 80,000) gives practically every high school graduate a chance to show what he can do The question as to whether it was too highly specialized concerned deeply those engaged in a clinical analysis of French society as it was on the eve of the war In other words, did the social defects of the educational system bear any responsibility for what may be called the psychological situation of the country?

The reformers of the Fourth Republic have put perhaps more study on this question than on any other social question of the day Students just out of the university also took part in the discussion One of the most interesting of their contributions, surprisingly mature, was issued just after the liberation of Paris, while the war was still in progress In Geneva the European Student Relief Fund published an analysis of the defects of French higher education Said they in Report No 5, October 9, 1944

> Specialization in a field narrowly defined and circumscribed, meant that the student was almost completely ignorant of all matters outside of the field he had chosen If the term "culture" can only mean the general use of all intellectual functions, then the student in our universities cannot be regarded as a cultured man First of all, the French student is not a *man* [The social factors—sports, hygiene, human relationships in general, are neglected ] Secondly, the French student is a bourgeois [Why

[16] The *doctorat d'Etat* requires the presentation in print, and defense, of two theses, the larger a discussion or research of "unquestionable originality," the smaller an "erudite contribution" It is not unusual to spend eight or ten years on this degree The *doctorat de l'université* is generally reserved for foreigners and, like the other, there is no definite residence requirement, it is a much easier degree

Two excellent descriptions of university procedure in France are to be found in *La Vie Universitaire à Paris*, published by the Council of the University of Paris in 1918, and Maurice Caudel, *Pour les Etudiants Etrangers en France* (Paris, 1925)

is this a term of reproach? Because "his world is a limited world, not serving anything or anybody"] . Lastly, the student has no social role [He is too fond of his ivory tower and does not realize that there is no such thing as education in a vacuum]

A large proportion of the students called up by the Vichy government for service in Germany joined the underground, especially in June, 1943 They then had to lead a hard life for which they were not prepared For many the adaptation was difficult, but all realized how incomplete their life had been, henceforth they vowed to be "complete human beings" Apart from the physical aspect of the *vita nova*, the very fact of their deportation to Germany taught them another lesson that they were part of a political, social, and human structure to which they were bound by a series of complex relationships, from which they could not detach themselves, whose destiny they had to share The idea of solidarity with the whole community and a sense of responsibility toward it evolved The necessity of understanding the events in which they had been suddenly caught up imposed itself Because of the advantages of their education they had to make for others the analysis they had made for themselves They had a national role to assume Their attitude had to serve as an example This task with all its risks was assumed The underground newspapers were published and distributed mostly by students There were no more collaborationists among the students than among their teachers

Soon after the liberation a commission was appointed to study the question of educational reform Headed by Paul Langevin, professor of physics at the Collège de France,[17] it began work in Algiers and deliberated for more than two years Its report, *La Réforme de l'Enseignement*, which appeared in 1947, is notable not only for the largeness of its wisdom but for the boldness of its recommendations The age of compulsory attendance is to be raised to seventeen, and at the other end an optional period of preschooling is to be provided Will French industry and agriculture accept this at a time when labor is so greatly needed? They point out that such a school-leaving age is higher than that of England and the United States Professor Desgranges (in the second of his articles referred to in the footnote) answers the criticism

[17] He died in December, 1946, and was succeeded by Henri Wallon, distinguished for his work in educational psychology, also a professor at the Collège de France The entire report, forty-eight pages, is a publication of the Ministry of National Education Stimulating discussions, pro and con, of the report are to be found in G Desgranges, "Les Grandes Lignes de la Reforme de l'Enseignement en France," *French Review*, May, 1947, pp 445-453, P Girard, "Controverse sur la Reforme de l'Enseignement en France," *French Review*, May, 1948, pp 461-466, and Mr Desgranges's reply, in the same issue See also R L Picard, "La Reforme de l'Enseignement en France," *Bulletin de la Societé des Professeurs Français en Amerique*, January, 1948, pp 19-30, and Frederic Lilge, "French School Reforms," *School and Society*, Dec 3, 1949, 70 353-356, an account by an American professor of education of the new spirit in French education, chiefly the lycées, as he observed it during a six-months study

by pointing out that the inadequacy of the intellectual resources available to many French farmers' sons has been one of the reasons for the increasing trend toward urbanization ("Village life bores us to tears") and that the insufficiency of technical education is one of the reasons for the unsatisfactory productivity of the French farmer In his mind one of the greatest merits of the project is that of granting to technical education an equality of privileges with general secondary education, through the creation on May 6, 1946, of a technical baccalaureate [18] which will admit its holders to the university as those who have the baccalaureate in letters and science are now admitted This will draw off a number of those whom he harshly calls "half-educated, bastards of culture," who take the traditional courses because there is no substitute The importance of the technical baccalaureate also lies in encouraging a larger number to go into responsible positions in commerce and industry

Thus the report designs to give richness and variety to a system that had not kept pace with modern conditions Perhaps the most glaring defect that it found was the social background which so concerned the student report already quoted the schools, it concluded, have not matched the pace of changing society A careful comparison was made with education in the Soviet Union and in the United States The shortage of teachers in France proceeds from the same causes as in the United States, though in France the social prestige of both schoolteacher and professor is probably higher, there is more respect for the man of pure learning as divorced from the technical expert Shortage of teachers has been accompanied by two other factors the rise in the birth rate—already referred to in these pages—and a great scarcity of school buildings, many of which had been destroyed

The Langevin-Wallon commission recommended no important change in the administrative setup of French education In some of the Pétain cabinets the Ministry of Education also included "Youth", it did not take long for "youth" to realize the significance of the connection Since the tragic death, just before the liberation, of Jean Zay, Minister of Education in five cabinets, the post has been filled by no reforming radicals, but the merit is theirs of calling for advice upon younger men of vision and vigor

Yvon Delbos, Minister of Education in the Queuille and Bidault cabinets has stated that 12 percent of the 1949 budget will be spent for educational purposes, compared with 10 percent in 1948 Three times as much money was spent for new construction in 1949 as in 1948, making it possible for the public schools to accommodate 115,000 more pupils [19] A ten-year plan has been

[18] The French baccalaureate degree should not be confused with the American In France it marks the completion of what may be called general education, in the lycée, which includes roughly the first two years of the program of the American college of liberal arts

[19] This expenditure for state-controlled schools does not meet with the approval of the Catholic party in the National Assembly (M R P) because if there are too few state

drawn up to repair war damages to institutions of higher learning and to modernize old buildings and laboratories Scholarship funds for secondary students were 30 percent greater in 1949 than in 1948, and 1800 more scholarships for university students were provided Another sign of educational progress is the increase in the number of students in the seventeen universities, from 78,000 in 1938 to 136,000 in 1950 In addition, there are about 30,000 enrolled in the professional schools conducted by the state independently of the universities, the most notable of which are the Polytechnic School and the School of Arts and Trades There were five Catholic universities established in 1875, in Paris (called the Institut Catholique), Lille, Lyon, Angers, and Toulouse, which, together with the ninety seminaries for the training of priests, have about 18,000 students

Are state-controlled schools in France better than a laissez-faire system? One might as well ask if the state university in the United States is better than the independent, privately financed institution The only answer is that there is a place for each France is not likely to adopt any other system than state control, simply because it would repudiate one of the chief principles of the Revolution national unity Her schools constitute the most pervasive and ubiquitous means of forming a truly French national ideology [20]

## *NATIONALIZATION*

But the foregoing is in the realm of the mind What about more concrete examples of bureaucracy? Can we ask the same question that we asked about schools are trains better run by the state? Is French tobacco (a state monopoly) better? Are the French perfectly satisfied with their so-called safety matches, also manufactured by the state? Are telephones and telegraphs better run? Does the country enjoy better health under national supervision?

Obviously, no one knows But far from objecting to the amount of state control which prevailed up to 1939, the French, like the English, have added to it by instituting as soon as the war was over a program of what the government called structural reforms, involving the nationalization of coal, gas and electricity, aviation, credit, insurance and banking The most interesting and complete of all these steps toward state socialization was the bank nationalization bill The lack of government supervision enjoyed by French banks between the two wars is one of the curious exceptions to the general bureaucracy surrounding public services which has been already mentioned

schools more children will perforce be channeled into the church schools This was the case in 1945 and 1946, as shown by the figures already given

[20] "The Englishman will agree that a national educational system is the very life-blood of democracy But, he will argue, it is much too dangerous to give the state a monopoly of public instruction That will produce standardization It will open the door to propaganda and close it to experimentation It is too powerful a weapon to give to government" David Thomson, *The Democratic Ideal in France and England* (Cambridge, England, 1940), p 101

Americans have been accustomed to complicated banking legislation, both federal and state, for a hundred and fifty years or so, but in France the need for a strict legal control has been little felt, partly because there was early developed a very efficient postal checking system and a safe public savings bank system

Almost the first concern of the popular front government when it came into power in 1936 was to "make of the Bank of France the bank of the French" The bank had been managed by a board of regents, composed of the governor and two assistant governors (appointed by the state) and twelve regents, six of them private bankers, six merchants, elected by the general assembly of the stockholders This, however, consisted only of the 200 largest shareholders, on which account it was said that the bank, and therefore France, was controlled by 200 families In place of this, Blum set up a council of twenty-three members, twenty-one of whom were appointed by the government to represent different government institutions, industry, labor, commerce, consumers, investors The stockholders at large elected the other two members Naturally the new council made it easier for the government to borrow from the bank It did not miss the opportunity to point out the anomaly involved in that a bank chartered by the government would lend money to its creator only with stringent conditions the money must be spent for purposes approved by the pre-1936 council of the bank For instance, that council said, in a communiqué issued in 1935 "[The credit already granted to M Flandin's government] may not prove sufficient He will ask for more credit Our reply will then depend on whether we are satisfied with the actions of the government during the first respite we have given it as a reward for its present determination to defend the currency"

The problems of postwar reconstruction obviously involved a much more far-reaching reform of the banking system than Blum had thought practicable The nationalization act of December 2, 1945, brought about state control not only of the Bank of France, which of course issued all the notes in circulation, but of the four largest privately owned banks The chief problem (as in every change-over from private to public control, whether in France, England, Italy, or Mexico) was the price to be paid by the government to the shareholders Little time was lost in argument, the case was urgent, and there was no compromise, no arbitration The annual return on the purchase price of bank shares, as in all nationalized industries, was set at 3 percent

The technical provisions for the administration both of the Bank of France and of the other four need not be given here The most interesting feature of the governing body in the case of the four banks is perhaps its democratic character four members of the council of twelve are named by labor organizations But national economic planning came to a head with the creation of the National Credit Council, which has considerably more power than any agency heretofore established by the United States government It is a body

of forty members, not all of whom by any means can be said to represent banking itself, seven, for example, are appointed by labor organizations, ten come from various economic groups such as agriculture, cooperatives, and craft organizations

> It is given far-reaching powers of investigation, of policy-making, and of enforcement It has the right to obtain from the banks, private as well as nationalized, detailed reports on the composition of their portfolios even to the names of borrowers and the amount of their borrowings On the basis of the information thus for the first time made available, the Council formulates credit policies and integrates all the activities in the field of credit, money and banking, of private as well as governmental organizations To the Minister of National Economy it makes proposals for the financing of the Monnet Plan [21] for reconstruction and modernization, and determines the priorities for the use of funds and for the flotation of securities To the Minister of Finance it proposes the amount and kind of Treasury borrowing It is consulted by all the governmental agencies in matters of investment, subsidy, or guarantee of credit [22]

Outwardly little is changed One has to go behind the counter to find if anything is different, and he will have to bring with him a good deal of technical knowledge The basic problem remains how to balance the budget

[21] The Monnet Plan is one of those four- or five-year planning devices with which the Nazis and Communists have made us familiar It was adopted by the Blum cabinet of January, 1947 It has thus been summarized, not too factually, by Robert Marjolin, Monnet's able aid "What is it that France must in reality do at the present time, not to achieve the first place among the individual states of the world, nor even the second or the third—that is not the question—but to achieve a production level making it possible to give each Frenchman all the comfort, health, and security which are compatible with the development of modern technology? For that is the objective we must assign to the French economy There is no question of making France either a giant industrial state or a great military power" By 1950 industrial production as a whole should reach a figure 25 percent above that reached in 1929 Not only is it a plan but it is an inventory, which proved very useful in making known France's needs when the Marshall Plan was being discussed The modernization of agriculture is just as important for France as the stepping-up of heavy industry, and when the farmers were polled they indicated that they needed 200,000 additional tractors Monnet must have been greatly tempted to propose the collectivization of farming in order to obviate the drawbacks of working the small, separated areas which so notably slow up production, the plan calls attention to this relic of the traditional past, but all it can do is to suggest labor-saving devices If this first plan succeeds, it will be followed by another four-year plan, but the schedule has been considerably slowed down by the crucial coal shortage, coupled with the ever present threat of inflation See Edgar Beigel, "France Moves Toward National Planning," in *Political Science Quarterly*, September, 1947, 62 381-397, and M L Hoffman, "The Best Thing in France Today," in *Harper's Magazine*, September, 1947, 195 251-261, also Mario Einaudi, "Nationalization in France and Italy," in *Social Research*, March, 1948, pp 22-43

[22] Margaret G Myers, "Nationalization of Banks in France," in *Political Science Quarterly*, June, 1949, 64 189-210

and raise the standard of living The five banks are so efficiently run that it is probable that fact, together with the guaranteed in place of the uncertain 3 percent return, will make the individual investor desire the nationalization process to include all the other banks It is certain that the Monnet Plan cannot succeed without the planning and the credit and the sound money market of the new banking system, and if that is so, perhaps it is in itself sufficient *raison d'être*

England had to wait for a Labour government before she could proceed with state control, in France, although the left, after the elections of 1945, was the first to demand "the return to the nation of the great means of production heretofore monopolized," the succeeding governments have not deviated from the general line then laid down France has gone much further in banking reforms, since only the Bank of England has been nationalized France has nationalized the great insurance companies, which so far England has not touched Each has made about equal progress in state control of commerical aviation Ocean shipping had been by both practically nationalized, through subsidies, before 1939, but the French National Assembly has gone as far as the British Parliament by taking over, in February, 1948, the whole of the merchant marine, and in June of that year by consolidating into one corporation, Air France, all the aviation lines

One general principle is common to both countries each nationalized those services and industries which were essential to postwar recovery In France the government in 1945 was confronted with a problem which fortunately did not trouble the English The owners of a number of great industries were collaborationists, many of them still serving prison sentences Whether it wanted to or not, the government was forced to take them over, whether or not they will be handed back to their owners will probably be decided by the degree of success attained by the entire nationalization project

All the nationalized industries are directed by a single state corporation (*Charbonnages de France, Electricité de France, Gaz de France*, etc ) with a tripartite board of directors composed (with slight variations) of equal numbers of representatives of the state, the consumers, and the employees The choice of consumer representatives might seem to present some difficulty, but there are in France recognized consumer organizations which have no counterpart in America The general managers are appointed by the boards of directors, subject to the approval of the government

All this constitutes "the most considerable step France has ever taken in the direction of permanent socialization [23] It was adopted, moreover, by orderly, democratic procedure, and the first stages of its application were completed without serious political or economic disturbances Even con-

[23] But cf the establishment of "national workshops" in the early days of the republic of 1848 (See supra, p 236 )

servative financial circles demonstrated a measure of confidence in the new, national corporations by bidding up the securities of the nationalized companies on the Paris Stock Exchange in the early months of 1946 "[24]

But perhaps this optimism is premature As time went on and the novelty began to wear off, nationalization was seen to require money as well as enthusiasm In the early summer of 1949 the Assembly's Financial Committee reported a budgetary deficit of 83,000,000,000 francs It was found that the expenses of the railway system were going to be 27,000,000,000 more than had been anticipated Paul Reynaud, Premier just before the fall of France and admittedly one of the clearest financial heads in the Assembly, called in question the management and even the principle of nationalized industry The nationalized industries, he said, are nothing but "great machines made for losing money" Reductions here and there, as Finance Minister Petsche proposed, would not do A complete overhaul of the nationalized industrial structure was needed, beginning with the railroads By implication he advocated a large-scale return to private enterprise

The National Railroads, the largest single industry, employ 475,000 workers and must in addition support 325,000 on pension Since 1938 technical improvements in railway equipment have made possible a reduction of 37 percent in the working personnel, but during the same period the administrative personnel has increased by 27 percent In 1947 the nationalized railways paid out 101,000,000,000 francs in salaries and pensions out of a total of 142,000,000,000 francs of total expenses Because the French railways have the lowest retirement age in Europe (fifty for the active worker, fifty-five for the office worker), they must pay out every year a fantastic sum for pensions, estimated at around 80 percent of the sum that goes to wages Nor are the railways an exception For the electric industry the figure has been put at 77 percent, for the coal industry 78 percent In simple terms this means that the government through nationalization is supporting an army of parasites Reynaud thinks that the noble experiment, if it has not already failed, has at least gone too far Social security is all very well, but it must not bankrupt the treasury

Apart from the warnings of such realists as Reynaud, the chief danger to the success of nationalization comes from the left, and especially from the extreme left It sees its ammunition turned against itself If moderate socialism can succeed, the demand for more drastic measures may well disappear

[24] D H Pinkney, "Nationalization in France," in *Political Science Quarterly*, September, 1947, 62 368-380 For an interesting factual comparison of the progress of nationalization in France and England, see *Les Nationalisations en France et en Grande-Bretagne*, publication No 983 of the Ministry of Finance, August 27, 1948 If one cannot, after studying the statistics, be entirely optimistic as to production in 1947 or 1948 compared with that of 1938, one fails to take into account the shortage of coal and the political troubles attendant upon inflation However, to take a particular example, the Renault automobile works, under state control since liberation, turned out in 1946 53 percent of its production in 1938, and in 1947 79 percent See *Perspectives* (Paris), July 31, 1948

## Chapter 18

# *Parties and Politics, 1939, 1949*

NO ONE can be so critical of his country as a Frenchman What he would bitterly resent from another he will say himself, more trenchantly, more caustically—and more artistically, more penetratingly There is, too, a curious sense of introspection and self-examination, a need to inquire closely into the apparent reasons which one time or another have brought France to the condition under inspection The literature of defeat is enormous Other students of national psychologies would turn aside, to more pleasant and constructive matters Not so the probing, mordant conscience of the French historian, sociologist, or philosopher The catalogue of the library of the late Duc de Chartres, offered for sale in 1949, listed some hundred titles on the campaigns of the disastrous six-month war of 1870, and many more on the Commune which followed The literature of the Vichy regime will probably turn out to be far more voluminous Between the two defeats lie seventy years of a thoroughly democratic and extremely interesting regime, which is now being examined in France with a view to appraising the faults and misdeeds which history will determine as contributing to the disaster

Psychologically, one's own time-environment is never so attractive as the one immediately preceding One is obviously too close to it to acquire perspective, and there is no sense of nostalgia or romance Though it has grown immensely in popularity, the writing of contemporary history is still looked upon askance by those scholars who say that not until certain archives are opened, not until certain papers left by certain actors on the historical scene are made available, can true and proper judgments be formed But to wait that long is impossible if one is entitled in one's lifetime to any real understanding of the current scene Later, the judgments of today can be corrected, if necessary

For the political—not the cultural—disparagement of the Third Republic reasons are easy to find Not dull is its history, but many see in it not so much the picturesque vicissitudes which light up the many facets of human nature as mainly a series of ministerial crises and financial and social scandals These cynics have to admit and applaud the acquisition of the colonial empire and

the recovery of Alsace-Lorraine, but maintain that these achievements, due primarily to the genius of the people, cannot be credited to the *regime* under which the people lived What are these critics' grievances? They see in the Third Republic an inglorious epoch, dramatically contrasting with the Bourbon monarchy in its glamorous days, with the Revolution and the Empire, no great actions, few great thoughts, a hollow and purely verbal philosophy, predominance of a partisan, narrow metaphysic over national realism, parliamentary disorder, impotence of the executive, governmental instability, electoral demagoguery, bureaucracy, routine, budgetary deficits, financial frauds, social indifference and bourgeois egotism at their height, misdeeds and troubles due to alcoholism and depopulation favored by the general unrestraint and the absence of religious and moral authority [1]

Under a monarchy these faults and defects, the list of which is indeed impressive, would have smoldered beneath the surface, as many of them did during the Second Empire, with the results that we know Under a republic they are seen to be the concomitants (however serious) of an individualism which demanded a weak state for fear that a strong state would menace liberty None of these dreadful things was fatal or France would not have been victorious in 1918, but their existence, in greater or less degree, did prevent France from reaping the moral as well as the political fruits of victory Nothing was changed after 1918, there was no adaptation to a new order France lived on hopes first of vast reparations, then of a weak Germany, of a strong League, then of a system of alliances—which she found herself finally too weak to support, and then came the depression, giving rise to a series of semi-fascist mass movements Charles Maurras's neo-monarchist *Action française* reviled the republic as "the slut", what might be called a French equivalent of the Ku Klux Klan arose when the neo-fascist Colonel de la Rocque founded the *Croix de feu*, which to be sure called itself republican but wanted the kind of republic that Poland had under Pilsudski Even a group of Socialists broke away and under the leadership of Marquet, who was later to be a member of Pétain's cabinet, wanted a republic based on corporative principles

[1] All these dreadful things have not been catalogued by a hostile critic but have been taken from Maurice Reclus's *Grandeur de la Troisieme* (Paris, 1948), p 8, in which a distinguished historian tries to set the Third Republic in its proper, worthy setting, for instance, he thinks better of Delcasse than of Vergennes (Louis XVI's great Foreign Minister), and makes other such comparisons which are all to the advantage of the men and principles of the "Third"

"In the main, the Third Republic, like the Second and the First, was an honest regime The lives of public men, including their private lives, were watched over by a strict and suspicious public opinion Republican members of Parliament were in the great majority honest men Its 'scandals' were exploited noisily for party purposes, but in fact were neither frequent nor widespread" Léon Blum, *For All Mankind* (New York, 1946), p 73 Americans must not forget that the scandals of the Grant and Harding administrations make it difficult for them to point many fingers of scorn

## *THE POPULAR FRONT*

Although the depression dealt France, so markedly an agricultural country, different kinds of blows from those England and the United States received, its social effects created a state of mind which made of military defeat an excuse to revive the slogan "Rather Hitler than Blum" Léon Blum was the Ramsay MacDonald of France A great humanitarian, but too fond of vague abstractions, a man of deep philosophical perceptions, writer, rhetorician, and debater of rare penetration and logic, he had been for years the leader of the Socialist party Just before the elections of 1936 he was the victim of a cowardly assault by the pseudo-royalists of Charles Maurras, and the news of the attack on the leader of the left discredited its enemies In France gang assaults on elderly and defenseless victims were regarded as signs not of dynamism, as they were in Fascist Italy, but of cowardly brutality The election of 1932 had followed the pattern of the American elections of the same year, for largely the same reasons, and four years later the left was further strengthened, it had been bitterly tested and seemed to have a constructive, if rather impracticable, program The left (the popular front) got 381 seats in the Chamber, the center and right 237 The main groups were, from left to right of the president 73 Communists, under Thorez, 156 Unified Socialists, under Blum, 117 Radical Socialists (who, with a curious disregard of French logic, were less radical than the Socialists), under Daladier, 42 followers of Flandin, known as the Democratic Alliance, 14 Popular Democrats, 9 members of De la Rocque's *Croix de feu* (later known as the *Parti social français*), 11 members of the Agrarian Group, 54 members of Louis Marin's Republican Federation, 11 members of Grandmaison's Independent Right In the center, with occasional wanderings to left or right, the timing and seriousness of which could not be counted upon, were about 150 other deputies The Socialists polled only about the same number of votes as in 1932, but the Communists doubled theirs Blum took office with high hopes He immediately concentrated on social issues, leaving to the appropriate members of the cabinet the care of other matters, until the Spanish situation forced its seriousness upon him The cabinet was an interesting left-wing group but included none save Socialists and Radical Socialists Pierre Cot, Minister of Air, was later to be tried and (*in absentia*) condemned by Vichy for his so-called dilatory preparations for war,[2] Daladier, who was to be

[2] These trials, held at Riom, near Vichy, in 1942, were originally demanded by Germany as a device for presenting France as a warmonger Pétain's idea, in agreeing to the German demands, was to place responsibility for French defeat on the republican politicians and generals—Blum, Daladier, Cot, Reynaud, General Gamelin, and others It proved a boomerang, the accused put up such an effective defense that it showed that the blame rested, to be sure, on the high command, but at a time when Pétain had been Minister of War and had not asked Parliament for more money or sharper measures of preparation Those on trial asserted with great vigor that the governments from 1934 to

Prime Minister from April, 1938, to March, 1940, was Minister of Defense, Vincent Auriol, elected President of the republic in January, 1947, was Finance Minister, Jean Zay, already mentioned in these pages, was Minister of Education, Moutet was a distinguished Colonial Minister, Monnet, author of the famous "Plan," was Minister of Agriculture Two women were undersecretaries Mme Joliot-Curie for scientific research, Mme Suzanne Lacore for child welfare

The ministry began by making collective bargaining compulsory, ending a series of sit-down strikes which it had inherited, it increased wages from 12 to 15 percent and established paid holidays, and, most important of all, it adopted a forty-hour week, which diminished production at a time when Germany had adopted a fifty-or-more-hour week As time went on, people began to get a little accustomed to the novelty of a Socialist government—all, rather surprisingly, but the Communists Whatever gains were made by the workers they took the credit for, when anything went wrong, they skillfully got out from under The control of the great labor union, the *Confédération générale du travail* (hereafter to be referred to as the C G T ), began to pass into their hands The most serious break between Blum and the Communists was over his Spanish policy of nonintervention (so called), which took the life out of the popular front, the traditional pacifism of the Socialists, with strange support from Fascist Italy and Nazi Germany, won out over the Communists' demands not for intervention but simply for the right, long recognized by international law, to sell armaments to a legally constituted government The Spanish war made deeper a rift in French society that had become obvious with the Abyssinian war Capital took wings and flew to Switzerland, England, the United States Disorder and violence remained and strewed the land with suspicion and class animosity In June of 1937 Blum asked Parliament for plenary powers—for control over finance As might have been expected, the Senate refused, and the Blum government resigned The popular front fell apart

After Blum, two governments headed by Camille Chautemps followed, the third and the fourth time that he had been Prime Minister Oddly enough, he kept Blum as his vice-president, and in fact there were but few new members But Auriol was replaced in the Ministry of Finance by a slippery opportunist named Georges Bonnet (no relation to Henri Bonnet, France's admirable postwar ambassador at Washington), who fancied himself as a financier almost as much as later he was to proclaim himself, in three large volumes, an excellent Foreign Minister "Socialist finance had had its day," it was said, "and the experiment had cost France much " But Bonnet lost some of his self-assurance when he announced that once more he had to

1939 had never failed to supply the staffs with all they wanted The trials were called off See, among others, Pierre Cot, *The Triumph of Treason* (Chicago, 1944), and Léon Blum, *L'Histoire Jugera* (Montreal, 1944)

devaluate the franc The Communists remained noisy and even more aloof from Chautemps than from Blum, and in January, 1938, Chautemps re-formed his government, dropping the Socialists and substituting Marchandeau for Bonnet in the finance ministry The Socialists reacted as might have been expected, and without any particular pressure, but seeing the writing on the wall, Chautemps resigned in March When Hitler marched into Austria France had no government at all Blum was called back and deemed the foreign situation so serious as to require a coalition government, "from Thorez to Marin" as he put it, but the parties of the right would not serve with the Communists So Blum once more formed a government of Socialists and Radical Socialists, once more he asked Parliament for plenary powers, and once more the Senate threw him out His second ministry had lasted a little over three weeks

Daladier formed his third ministry and called it the Government of National Defense Although predominantly a Radical Socialist group, it included enough Socialists and independents to justify its being called a coalition government For some months Marchandeau was Minister of Finance but in October Daladier replaced him with Paul Reynaud, who inherited, thanks partly to the expenses of the mobilization ordered at the time of the Munich crisis, an almost hopeless financial situation His orthodox methods of recovery were relatively successful and satisfied everyone except the Communists, who staged a general strike in November This time the government was prepared, and with unexpected dispatch it took over the railroads and other services and broke the strike almost as soon as it had been declared The Communists became more unpopular than ever Their position was all the more difficult in August, when the Russo-German treaty of nonaggression was published But when war was declared on September 3 they rallied to the defense of their country, realizing that the pact was no real obstacle in their consistent struggle against the man and the system they had always denounced Nevertheless, Daladier on September 26 dissolved the party and expelled its deputies

## *THE PARTIES OF 1936 AND THEIR SUCCESSORS*

### The Popular Democrats and the M R P

The Parliament elected in 1936 was not due to be renewed until 1940 The policies of the groups composing it can be, at least in part, understood from the names of the parties Their membership cannot be allocated among classes, the intelligentsia, for example, was well scattered throughout them all, including a smattering of teachers and writers among the Communists The Republican Federation included more farmers than did any other party, eager for peace and order, they were simple in their political demands The rest of its strength came mainly from the conservative bourgeoisie and heads of small business The fourteen Popular Democrats were the nearest ideologi-

cally to the Republican Federation Sometimes the word "Christian" was added to the appellation, and in so far as the church had a party in the last days of the Third Republic, this was it How did this small group develop into one of the three major parties after the liberation, the *Mouvement républicain populaire* (M R P )? It capitalized on De Gaulle, on its leadership, and on a new program In 1945 this new group seemed to most French people to be De Gaulle's party One of its original leaders, Maurice Schumann (who should not be confused with Robert Schuman, subsequently Premier) had been the general's righthand man in London, writing most of his speeches and doing much of his broadcasting Then, too, it was the least leftist of the parties, and the moderates had hardly anywhere else to go To be sure, its social program seemed to some of them a bit audacious, but that was the moment when a refreshing breeze of reform was blowing throughout the country, the resistance must cap its work by making the Revolution meaningful So, in 1945 and 1946, the moderates voted for the M R P, some in a great burst of enthusiasm, others for lack of an alternative, but all with the sentiment that it was the only, if not the best, rampart against communism

Secondly, there was its leadership People wanted new men, younger men With the exception of Robert Schuman, the average age of its leaders was not much over forty None of them had ever been a minister Its war record was unimpeachable Georges Bidault, who seems to be its perpetual chairman (he was reelected on May 29, 1949), had been the president of the National Council of Resistance Thirdly, there was its program It attempted to do something new, it early became the party of Catholic democracy, if not of Catholic socialism

If there was at the beginning any connection between De Gaulle and the M R P, it rapidly grew less As a matter of fact, the general conspicuously refrained from coming to its assistance in the opposition to the first constitutional project, opposed the second one—which the M R P supported—and held critically aloof from the Schuman ministry The real problem of the party is how far its more conservative supporters will fall into the hands of the so-called Gaullist Rally (see p 325) But the party itself, at its annual congress of May, 1949, adopted a resolution denouncing the Gaullist movement for "harmful action in dividing the French and retarding the national recovery by repeated sterile attacks against the present regime and by demoralization of public opinion"

### The Democratic Alliance

The Democratic Alliance was before the war the party of Flandin, Tardieu, and Reynaud Of these at least the first two were not distinguished for leftist tendencies, and the party's social program differed little from that of its neighbor, the Republican Federation It has been suspected that one of the reasons for the existence of this party (a suspicion which may also extend

to others) is that its leaders Flandin and Tardieu [3] could not get along with anyone else and so had to form a new party, however small and undistinguished Its principal contrast with the Republican Federation was its complete indifference to any religious influence

## The Radical Socialists

After 1918 the Radical Socialist party was the party of the peasantry, as such it could be neither very radical nor very socialist Between 1918 and 1939 it was torn, like France, between divergent tendencies, so evenly balanced as practically to prohibit action in any direction until it was too late for the action to be effective But for more than a generation it held the balance of power, on economic questions it generally voted with the right, on political and social questions more often with the left That does not sound as if it exercised great independence or courage, but this occasionally it has done, notably under the successive leadership of Waldeck-Rousseau and Combes, when it took unto itself Gambetta's slogan, "Clericalism, that is the enemy," and in 1905 broke off relations with the Vatican Its identification with the politics of the Third Republic brought about its practical eclipse during the Fourth, though he would be rash who prophesied its demise It was perhaps just because it was not a party to be greatly feared that presidents of both the National Assembly and the Council of the Republic have come from its membership After the war it became increasingly rightist, desiring a return to the constitution of 1875 and opposing nationalization In April, 1946, it combined with one of the minor resistance groups (Democratic and Socialist Union of Resistance—U D S R, a coalition of Socialist and non-Communist liberals) to form the *Rassemblement des gauches*, which sent 70 deputies to the National Assembly of 1946 It is the party of Edouard Herriot, it is the French counterpart of the old English Liberal party

## The Socialists

The French name of the Socialist party is not simply *Parti socialiste* but *Section française de l'internationale ouvrière* When a large group of Socialists went over in 1920 to the Third (Communist) International, those who remained true to historical socialism, under Faure and Blum, still showed their adherence to a socialist theory which was international as well as French With the growth of Fascism and Nazism, however, the international aspects of socialism were soon subordinated throughout Europe to a keen and selfish nationalism The great Socialist leader Jaurès had been murdered in July, 1914, because he had tried to bring French and German Socialists together The disappearance of international socialism as he knew it and

[3] The most recent commentary on the influence of Tardieu during the last years of the Third Republic is Jacques Debu-Bridel's *L'Agonie de la Troisieme Republique* (Paris, 1948)

worked for it would have been a deathblow to all his hopes Millerand saw no discrepancy between the two adjectives "In calling itself international," he said, "the French Socialist party did not forget that it was French, patriotic and internationalist, the two qualities which, before us, the heroes of the French Revolution so nobly combined"

Its deputies, who in the 1936 Chamber numbered 156, ten years later had shrunk to 104, but only some of its losses did the Communists gain It is rather easy to be cynical at the expense of French Socialists They have consented to join a bourgeois coalition Why? Since 1937, they have had no choice After the formation of the Cominform, the Communists, instead of doing their best to step up French production, proceeded to encourage strikes It became the duty of the Socialists to save (as they expressed it) what could be saved in the first place—the democratic institutions and the freedom of France "We had to fight on three fronts," they now say, "against the Stalinites, against the Gaullists and against poverty" The first two battles they claim to have won The third of course still remains to be won, and in this battle they are admittedly hampered by their coalition colleagues to the right Unofficially, many Socialists in 1949 said "Thank God for De Gaulle, but for him, we should never have been able to enter the bourgeois coalition But with enemies of the republic on *both* sides, it was possible In 1948 everyone prophesied 'De Gaulle or a Communist victory'" The Socialists credit themselves with the fact that this is no longer true

The official Socialist position is that the Communists want to bring De Gaulle into power, since they (the Communists) cannot themselves obtain power, they would count on such stupidity on his part as to cause his speedy downfall, creating a situation of confusion from which they would profit There are two other reasons why the Socialists will have no truck with the Communists (1) The Communists are the formidable obstacle which is preventing the Socialists from "reconquering" the French working class, (2) an alliance with the Communists has become "unnatural" "Past experience," said Mounier, editor of *L'Esprit*, "has shown only too clearly that the Communists have the unfortunate habit of swallowing their loyal allies as soon as they need them no longer" Enviously French Socialists look across the Channel "If only we in France were as powerful as the Labour party is in England, what a wonderful country we could make of it!" They may envy labor's power but they reproach labor for its inconsistencies Was it necessary, for instance, for the Labour party to take such a feeble line over Franco Spain? And must labor insist on what is in effect the equivalent of the veto in the Council of Europe? [4] French Socialists are consistent in their wish for

[4] In August, 1949, the Council of Europe, composed of official delegates of thirteen governments (Germany became a full member in May, 1951) began its meetings, in Strasbourg, with the hope that it would pave the way for some sort of European federation, the "United States of Europe" so dear to Briand's heart It was aided by a Consulta-

a limitation of sovereignty in the new Europe, and took the lead in writing in the 1946 constitution a clause in the preamble which binds France, on condition of reciprocity, to "consent to the limitation of sovereignty necessary to the organization and defence of peace" Much was said at the Socialist congress in the summer of 1949 about reviving the Socialist International Its need for a more dynamic program is obvious if it is to escape the fate of all middle-of-the-road parties For that is what it is Once upon a time the Socialists were the great party of the left Now, however, that there is a strong party further to the left, they are in fact a center party, with all the disadvantages which such a position involves in a country where the extremes flourish and middle parties have no dynamism What was the strength in 1950 of this once great party? Not more than 156,000,[5] as compared with 370,000 in 1947 Its newspaper *Le Populaire* is printed on a single sheet and is reported to need an annual subsidy of 57,000,000 francs [6]

## The Third Force

The Socialists are not the only center party, but to make the center stronger they have combined with the M R P, the Radical Socialists, the U D S R and even some smaller groups, who have all become conscious of the threat from both extremes So they have called into being a new group, which can hardly be called a party since it has not quite the coherence of, for instance, Blum's popular front Nevertheless, the Third Force must be reckoned with The traditional vicious circle in French politics is revolution followed by reaction Revolution, or the threat thereof, is accompanied by violence, disorder, and economic distress, until a savior of society appears to rescue the country Such was the story of the First, and again of the Second, Republic It did not happen to the Third, but MacMahon and Boulanger were on the point of trying Will the Fourth revert to the earlier pattern? Against it will be the Third Force

The greatest weakness of the middle-of-the-road party in France, as perhaps in every country, is the age group to which it appeals, its support comes too much from the middle-aged and the elderly It is true that since the birth rate was falling from 1930 till the end of the war (see above, p 214) the number of young people who acquire the vote will be comparatively small and declining for some years, whereas the middle-aged will have the redoubtable burden of maintaining simultaneously a very large number of old

tive Assembly, consisting of eighty-seven members of the parliaments of the participating countries All parties in the parliaments were represented with the exception of the Communists The French delegation numbered eighteen, headed by Edouard Herriot

[5] According to J P Dubois-Dumée, "La Décadence des Partis," *Revue de la Pensée Française*, September, 1949

[6] For an interesting sketch of its secretary-general, Guy Mollet, see R A Priouet, *La République des Partis* (Paris, 1947), chap 10, which traces the position of the party historically and *vis-a-vis* the Communists

people and also a large number of small children who reflect the great increase of the birth rate since the war A vote catcher might therefore be tempted to seek the votes of the middle-aged and the elderly But in the long run it is the energy of the young that will determine France's future, and if Gaullists and Communists continue to divide among themselves the support of the great majority of the young, France will still be drifting, despite appearances of political stabilization, to a struggle between these two tendencies

## The Communists

The dissolution of the Communist party in 1939 did not, of course, mean its disappearance, it simply changed its tactics and went underground But not until the German attack on Russia, in June, 1941, did it become a leading factor in the work and success of the resistance [7] How close is the connection between these two facts is hard to measure Whether by their activity they were thinking of helping Moscow first, or French independence first, cannot be guessed, what is clear is that they were doing both The prestige which the party gained by this leadership in the resistance it proceeded to enlarge as soon as the fighting had ceased But the point is that this prestige by 1948 had reached its peak The growing prosperity of the country was a leading factor—which largely explains the Communist strategy of opposing the Marshall Plan The number of those who hold party cards is not growing In 1947 Thorez admitted it was only 616,000 That number, however, is not reflected in the popular vote, which in 1946 rose to 5,351,926

How far does it take orders from Moscow? The Soviet government never had police power over French Communists, whose subordination has always been voluntary Communism is international and cannot have national policies But police power is not necessary in order to maintain a close, disciplined connection Money, guidance, counsel come from Moscow and would be in themselves, perhaps, sufficient to keep French Communists in the International [8] But the French are more supple and subtle than their Russian brothers They will participate in coalition governments, they will be patient, they will probably continue action along democratic lines for some time, as opportunists, and not as Frenchmen, they will continue to obstruct French recovery, they will continue to discredit the west, they will continue to proclaim De Gaulle as a would-be dictator They are not strong enough to attempt more Both they and their Russian mentors know that revolution in France (as in Italy) would exacerbate relations between Moscow and Washington and might lead to an American counteroffensive which would

[7] It must in all fairness be acknowledged that there was little organized resistance before then

[8] "Either French Communism must free itself of its obligations toward Soviet Russia, or Soviet Russia must accept obligations toward Europe, or both" Léon Blum, *For All Mankind* (New York, 1946), p 116

place in jeopardy the "democratization" not only of France but also of the countries of eastern and southeastern Europe

These ties with Moscow have cost the party dear If they can be proved, then, as Vernon Van Dyke points out,[9] Communists' claim to patriotism is patently fraudulent, the good faith and the intellectual honesty of the Communists must ever be suspect, and the "democracy" championed by Thorez would be foreign to the traditions of France and the west To the connection with Moscow, moreover, must be largely attributed their failure to achieve unity with the Socialists, to whom, as one of their leaders, Daniel Mayer, put it, "internationalism does not mean the negation of the fatherland" The Communist party envisaged by Lenin was a highly select and tightly disciplined organization, but, though French Communists are infinitely more obedient to party discipline than are members of any other party, they still are Frenchmen, they still are individualists [10]

## Labor

The *Confédération générale du travail* was founded in 1895, with its exclusive object, according to the statute, that "of uniting on the economic plane and in the bonds of close solidarity the workers struggling for their integral emancipation" It was almost Marxist language and many wondered what political role such an object marked out for it The economist Yves Guyot thought it portended a fourth state, with which governments would have to count Guyot should have been reassured in 1906 when the *Confédération*, in a manifesto known as the Charter of Amiens, affirmed its intention not to engage in political action "It requires of each unionist that he should not bring his political views inside his union In order for trade unionism to achieve its fullest effect, economic action must be directed against employers" But Guyot was probably not reassured, for it was the spirit of Bakunin which hovered over the Amiens congress Bakunin, the most dynamic personality in the anarchist movement, and the French anarchists had become trade unionists after the laws of 1893 and 1894 (following upon anarchist outrages, the climax of which was the murder of President Sadi-Carnot) had made it an offense to profess anarchism in France The *Confédération* on the eve of the first war was confronted with a tragic

[9] "Position and Prospects of the Communists in France," in *Political Science Quarterly*, March, 1948, 63 45-81

[10] For a vivid "Appraisal of the Communists in France" see the article of that title by Joseph A Barry in the *New York Times Magazine*, July 10, 1949, and by the same author, "A Battle for the Mind of France's Worker" ("it's a struggle the Communists will win unless we counter their vicious anti-American campaign"), *New York Times Magazine*, Dec 11, 1949 See also A Rossi, *A Communist Party in Action* (New Haven, 1949), which is primarily concerned with the program and activities of the party during the war, and W Gerard, *Histoire du Parti Communiste Français* (Paris, 1948), an inclusive, impartial account

dilemma violence or patience The wonder is that it did not divide into two Nevertheless at each annual congress syndicalism [11] always triumphed, then Jaurès, on the eve of his death, managed to call a halt, and the war placed the moderate element definitely in control In 1920 the C G T had 2,400,000 members, three times as many as in 1914 Its history since then has been a continual struggle between moderates and radicals Those who wanted the class war to be always prosecuted greeted the rise of Russian communism in 1920 (then called Bolshevism) with cheers, strikes broke out, put down by the government with a severity which it did not afterwards show, and the moderates withdrew from the Confederation by hundreds of thousands From 1922 to 1935 trade unionism was weak and divided, and employers reverted in dealing with their workers to the old individualism The C G T announced its support of the popular front (despite the Amiens manifesto) and got a new lease of life Its chief rival since the first war was the so-called Christian Trade Unions, inspired by Pope Leo XIII's famous encyclical *Rerum Novarum*, which of course would repudiate any revolutionary intent and would emphatically refuse to countenance the class war The C G T saw no reason why one's religious tenets should affect a worker's desire to improve his status, and the two existed side by side in very much the same way as do in America the C I O and the A F L

In the meantime the Communists had seceded from the C G T They decided to come back when the popular front came into power, and everybody finally was happy, the Confederation was collecting dues from 4,000,000 men and women But once more, with the coming of the war, it was torn apart, and once more the Communists were expelled In other words, the history of the C G T continued to be one of internal warfare, no great labor organization has ever had such a hectic series of ups and downs The suspicion kindled by the Soviet-German pact could not be lulled for many months But in April, 1943, an underground C G T was formed, and in its executive committee (National Confederal Committee) each side got four memberships and one secretary general, Léon Jouhaux for the moderates, Bénoit Frachon for the Communists [12]

[11] "A revolutionary proletarian movement which may be described as an amalgam of socialism, anarchism, and revolutionary trade-unionism From the doctrines of Marx it takes the theory of the class struggle and the control of industry by the proletariat, but it holds that the overthrow of the bourgeoisie must be accomplished by direct trade-union action quite independent of political action Furthermore, after the proletariat has defeated the bourgeoisie, there must be no retention of any central authority or control, hence the syndicalists follow in the footsteps of the anarchists with whom they have been rather closely associated" R E Westmeyer, *Modern Economic and Social Systems* (New York, 1940)

[12] Pierre Cot, who knows well the three Communist chiefs—Thorez, Duclos, Frachon—is sure that the latter is superior to the two others in ability and intelligence

Such amity was only surface deep, a wartime gesture The Communists had gone into the war by being expelled from the C G T and thoroughly discredited all along the line They came out of it in control of the C G T Jouhaux and his followers were too gentle and easygoing When the moderates in the C G T finally felt forced to do something with or without Jouhaux, they formed the *Force ouvrière* (Labor Strength), a group at first within, not outside, the C G T whose program was simply to force the Communists from control Its first meeting, December 18, 1947, was addressed by Jouhaux, who warned the new body against splitting the ranks of the C G T But the next day it voted by a large majority for secession The resolution covering this decision reaffirmed the need for the maintenance of an independent and nonpolitical trade unionism as well as declaring "unshakable hostility" to the establishment of "personal power" It accused the Communists of violations of the syndical statute and called upon its leaders to set up a new organization to prepare the way for a constituent congress Jouhaux resigned as cosecretary of the C G T

It was, of course, not enough for the *Force ouvrière* to set up shop as merely a non-Communist labor group in opposition to the C G T It had to have a program, if it did not, it would wander along much as does the Christian Workers' party, as merely a negative "force"—which means no force at all A new labor group in the best of times has an uphill struggle, for in France an individual cannot join, he comes in with his union or not at all But in 1948 and '49 the new movement had no money, no buildings, no material with which to work, and against it was a determined opposition with an organization of unparalleled efficiency Frachon was not idle while Jouhaux worked Whenever a union voted to join *Force ouvrière*, the C G T organized another, made up of the minority that preferred to stay with the C G T Thus by the autumn of 1949 both had federations in all the thirty-five recognized trades But the warfare is ideological and not political Jouhaux deplores the division and says his men will come back when they can be sure of being free from Communist influence

Communism continues to exert a powerful attraction on the younger generation of workers (it is largely the middle-aged who have formed the *Force ouvrière*) and on the intellectuals, whether of labor or not—and this, not because of any love for Russia or a desire to create a political dictatorship in France, but because in a period of profound moral confusion communism appears to offer a firm belief that one can cling to This is especially true of young people who are filled with the ardor natural to their age to participate in public life but are little attracted by dull, moderate political parties, most of which are headed by old-timers and prewar leaders like Blum and Herriot On the other hand, a moderate like Queuille was trusted because he pointed out the dangers of both kinds of extremism, both the Communist and the De Gaulle variety From the time he took office (September, 1948) he said he

would free the country from the terrorism generated by the Communist C G T., and by deft manoeuvering, coupled with the courageous support of his Minister of the Interior, Jules Moch, he largely accomplished his purpose Between 1947 and 1949 the C G T lost between two and three million members

Today there is a crazy pattern of rival unions Accurate membership figures are virtually impossible to obtain Moreover, the various unions carry on their rolls large numbers who can no longer afford to pay dues The following approximations of relative union strength are unavoidably rough C G T, 2,700,000 members, *Force ouvrière*, 750,000, C F T C (Christian Workers' Confederation), 750,000, General Committee of Independent Syndicalists (Vichyites), 150,000, F N S A (National Federation of Autonomous Syndicates), 150,000, other independent unions, 210,000, teachers unions, 100,000, C N T (Anarchists), 50,000 The non-Communist unions, then, have about 2,100,000 members, or some 600,000 less than the C G T Of the nearly 3,000,000 who have quit the C G T perhaps half have shunned union membership ever since These "abstentionists" and large numbers of other workers who do not belong to any union constitute the Communists' major target Obviously they will win a dominant control unless a new confederation of all anti-Communist workers is organized De Gaulle failed to take advantage of that opportunity, failed to capitalize on the need His proposal in September, 1948, of an "association of labor, capital, and management," like all his economic programs, was much too vague [13]

### Summary of the Principal Political Parties of 1949

*Communist Party* Domestic policy "We advocate a democratic program and a plan for national rehabilitation acceptable to all republicans It includes some nationalization policies, but also the support of small industries and crafts, and the defense of the peasant landowners against trusts" Foreign policy opposed to western European bloc, but its position on Germany follows the French rather than the Soviet line, it wants an internationalized Ruhr, and wants the Saar to be incorporated economically into France Some of its leaders Maurice Thorez, Jacques Duclos, André Marty, Léon Mauvais, Marcel Cachin, Bénoit Frachon

*Mouvement Républicain Populaire* (M R P) Domestic policy already described Foreign policy it takes a stronger stand than either the Socialists or the Communists on the maintenance of French sovereignty throughout the French Union It favors the western European bloc Leaders Georges Bidault, Maurice Schumann, P H Teitgen, Francisque Gay

*Socialist Party* Domestic policy already described, for industry, it favors two sectors, one nationalized, one free Foreign policy it favors

[13] See H W Ehrmann, *French Labor from Popular Front to Liberation* (New York, 1947), same author, "French Labor Goes Left," *Foreign Affairs*, April, 1947, 25 465-476, Walter Kerr, "French Labor Divided," *Foreign Affairs*, October, 1948, 27 96-103

the western European bloc Leaders Léon Blum (died March 30, 1950), Guy Mollet, Daniel Mayer, Charles Lussy

*Rassemblement des Gauches* This is not a party but a bloc, formed in April, 1946, in response to the new electoral law which aimed at eliminating the danger of irresponsible minorities by requiring a party to contest at least twenty constituencies and to secure at least 5 percent of the national vote if it is to receive representation in the National Assembly The R d G is composed of the Radical Socialist party and the Democratic and Socialist Union of Resistance (U D S R ) The former is mildly opposed to nationalization Leaders Edouard Herriot, Henri Queuille, Édouard Daladier, Paul Bastid, André Marie, Théodore Steeg The latter is a coalition of Socialist and non-Communist resistance groups Its leaders Eugène Petit, René Pleven

*Independent Republicans* A small group which, without representing any particular political philosophy, through the influence of its individual members and frequent cooperation with the other rightist party (the P R L ) plays the parliamentary game for what are most often conservative interests Leaders Paul Reynaud, René Coty, Louis Marin, Louis Jacquinot (Marin was one of the most courageous of all the anti-Vichy leaders )

*Republican Party of Liberty* Formed in December, 1945, from four small rightist parties Domestic policy opposed to rapid nationalization Foreign policy favors western European bloc Leaders Michel Clemenceau, Jules Ramarony [14]

## *THE PRESS*

We can hardly close a discussion of party activity without examining the various organs of propaganda Bryce opens a characteristically illuminating chapter of his *Modern Democracies* by saying, with equally characteristic dogmatism, that "it is the newspaper press that has made democracy possible in large countries" Just as easily can it make democracy impossible, or at least difficult Were freedom of the press abolished, it would mean perhaps the end of democracy, and yet it is at times the weapon with which democracy allows itself to be stabbed in the back

One may risk a generalization at this point and say that France is the country where good, cheap reading is more general than in any other country Where Americans now pay nearly five dollars for a book of substantial merit intended for a permanent place in their libraries, the French pay from one to two To be sure the book is not so attractively or substantially produced,[15]

[14] Paraphrased largely from W H Mallory (ed ), *Political Handbook of the World* (New York, 1950) Invaluable for a study of the political situation in France today is Paul Marabuto, *Les Partis Politiques et les Mouvements Sociaux sous la IVe Republique* (Paris, 1948), which gives their history, organization, program, and general activity

[15] Published not in cloth but in paper covers, it is meant to be sent to a binder, who will carry out the owner's ideas as to cost and type of binding, whether cloth or leather, if the latter, whether levant, morocco, etc , and with what, if any, tooling or design A cloth binding would cost a little over a dollar

but the contents are of equal importance More comparable in both content and price are their weekly and monthly magazines But the role of their newspapers is historically very different from that of their American counterparts, each illustrates supremely well the national temperament The Frenchman takes a passionate interest in politics, as we have observed, his practical interest takes the form of many parties, some not very different in character, if the Americans expect the political ideas of two parties to be reflected in various newspapers (although they are not owned or even controlled by the parties), it is no less natural that the eight or ten shades of French political opinion should each require its own expression The primary difference lies in the fact that the *news* columns of the American press are in general uncolored by the political affiliation of their owners, whereas the French papers have much in them of the flavor of the old political pamphlets, well written, directed for the most part to an intelligent reader, of the eighteenth century A French journalist must be witty, but witty in a peculiar sense sharp, incisive, cynical, rather than jocose or facetious French authors or politicians can make outstanding reputations as editors or journalists, their press is not anonymous, not impersonal as is ours In the heyday of the Third Republic a Rochefort in *L'Intransigeant*, Clemenceau in *L'Aurore*, Léon Daudet and Charles Maurras in *L'Action Française*, Buré and Hervé in *Victoire*, scores of others, heads of political parties, senators and deputies, ex-ministers, serious essayists on the art and science of government, made one open the paper of his choice with the certainty that, since the article was signed, he was in touch with an interesting personality as well as a political point of view

It will be asked how so many papers could prosper How could there be enough readers for thirty morning papers and ten evening papers in Paris alone? Like books and magazines, they did not cost much to produce, consisting at the most of six or eight pages, they were subsidized either by a political party or by large vested interests It gave Loucheur or Coty a sense of power to buy the *Petit Journal* or the *Figaro*,[16] fortunes like theirs could stand immense inroads, and they could always have the comfortable feeling that by establishing a new paper, or buying an old, they were exerting an ever increasing conservative influence on the life of the country

These papers, from the political point of view mildly conservative, had immense circulations In the thirties *Le Petit Parisien* claimed the largest of any daily newspaper in the world—1,700,000 *Le Journal* had 1,000,000, *Le Matin* 800,000, *L'Echo de Paris* 200,000 *Paris-Soir*, the largest evening paper, had more than 500,000 These were not personal or even party organs to any apparent extent, they were largely *journaux d'information* as distinct from the *journaux d'opinion* of the extremists of both sides *L'Action Française* of the neo-royalists, *Le Populaire* of the Socialists, or *L'Humanité* of the

[16] Although a reactionary, certainly a conservative paper, the *Figaro* has survived the liberation, mostly because of its creditable record in the resistance

Communists Because a paper was pro-royalist and hence conservative it was not necessarily dignified *L'Action Française* was one of the most vituperative, scurrilous sheets in France, not always escaping the libel laws, read for the most part because Daudet and Maurras could approach brilliance as writers

Nor can we omit those papers of relatively small circulation which might have been compared to such outstanding papers in the United States as the old New York *Post* or the Boston *Transcript*, papers so respectable, and also to many so dull, as not to have been able to stand the competition of less conservative rivals *Le Temps*, which some have compared, not quite accurately, to the London *Times* and not at all accurately to the New York *Times*, was the unofficial spokesman of the Ministry of Foreign Affairs,[17] the *Figaro* appealed to the aristocrats of the Boulevard St Germain who still used titles, the *Gaulois* was frankly antirepublican, without, however, being thoroughly monarchist

The accusation of corruption was often leveled at the press of the Third Republic If a share of the secret funds of the Foreign Office was devoted to subsidies to a large number of newspapers, the answer, though given without much conviction, was that the government was entitled to have its point of view widely diffused, and to do so it was preferable to help a number of newspapers than to start a little-read publication of its own The government, ever since the Revolution, has of course had its own official publication, generally called, as now, *Le Journal Officiel*, but this, like the British *Hansard* and the American *Congressional Record*, is never seen in the hands of the so-called man in the street Where the French press really showed its venality was in its relationship with certain economic interests and with various foreign governments The Panama scandal involved many papers which had accepted money from the dying Canal Company for influencing public opinion regarding the floating of loans Russia and other countries, anxious to sell bonds in France, paid large sums to newspapers "It is impossible," says Léon Blum in *For All Mankind*, "to look back on the rôle of the national press in France during the last twenty years without experiencing a sense of shame, and none can honestly deny that its almost universal venality, revealing itself in both moral and technical inadequacy, became a focus of infection for the country as a whole But our national newspapers were almost entirely dependent on big business, in other words, the press too had become a bourgeois institution "

Have these evils been eradicated in the Fourth Republic? Probably, since the papers themselves have either disappeared or emerged from the holocaust under new, and generally liberal, control The great journals of information with their enormous circulations previously mentioned are nearly all relics of the past During the occupation they either were collaborationist (actively or passively), as might have been expected from their ownership, or, if they remained republican, perforce turned to nonpolitical topics A surprisingly

[17] Its successor today is perhaps *Le Monde*, with a greater circulation (174,000)

large amount of what might be called pure literature was produced, since many authors were shackled and would write only of abstract matters Today the largest circulation among newspapers is nothing like the 1,700,000 once claimed by the *Petit Parisien* but is probably the 600,000 of *France-Soir*, a paper of independent politics Léon Blum was the editor of the Socialist organ *Le Populaire*, but it confesses to a circulation of less than 100,000 The two chief Communist papers, *L'Humanité* and *Ce Soir*, edited respectively by the brilliant writers Marcel Cachin and the poet Louis Aragon, have during the last two years suffered a severe loss From a 1947–1948 circulation of 450,000 (as given in W H Mallory's *Political Handbook of the World*, 1949 ed ) *L'Humanité* has gone down, in 1949, to 265,000 (as reported in *La Révue de la Pensée Francaise*, Montreal, August, 1949), and *Ce Soir* from 478,000 to 270,000 Of a total printing of 2,285,000 copies of all the Paris morning papers, the Communist journals represent 11 percent

Outside Paris, the Communist organs include papers in Lille, circulation 175,000, in Marseille, 160,000, in Toulouse, 110,000, in Montpellier, 100,000, and other smaller papers in Lyon and Ajaccio (Corsica) Their subsidies from the party must balance their constantly rising costs of production

Even fewer papers in the provinces have survived the war than in Paris Before 1939 the *Dépêche* of Toulouse (the great organ of the Radical Socialist party), *L'Eclair de l'Ouest* in Nantes, *Le Petit Marseillais*, *Le Petit Provençal*, *La Petite Gironde* in Bordeaux, were papers which corresponded roughly, in their influence if not in their liberalism, to the Manchester *Guardian* or the Yorkshire *Post*, but their places have been taken by papers some of which, as in Lille and Rennes (Brittany) have circulations approximating 300,000 (according to Mallory) Both the influence and the interest of the so-called provincial newspapers are natural in a country where regional characteristics are so persistently catered to and dramatized as they still are in France [18]

[18] See, in general, James Bryce, *Modern Democracies* (New York, 1924), vol 1, chap 10, "The Press in a Democracy", and, in particular, W L Middleton, *The French Political System* (London, 1932), chap 10, Robert Valeur, *Democratic Governments in Europe* (New York, 1937), pp 494-507, P Lazareff, *Deadlines* (New York, 1942)

## Chapter 19

# The Fourth Republic

### *TRANSITION*

HENRI-PHILIPPE PÉTAIN, Marshal of France, then in his eighty-fifth year, succeeded Paul Reynaud as president of the Council of Ministers on June 16, 1940, and the republic officially died twenty-four days later It was a combination of murder and suicide unique in history It was the generals, not for the most part the civilians, who insisted on an end to the fighting Perhaps it was the generals who best knew the condition and the morale of the army which they had so badly led, but there is every evidence that Pétain and the commander in chief, Weygand, reactionaries in thought, medievalists in principle, feared communism, even liberalism, more than occupation by the hereditary enemy, since this, odious as it might be to their pride and patriotism, would give France a chance to return from following after false gods The armistice, however, was by no means easy for Pétain to secure in the cabinet The decision was very close Pertinax in *Les Fossoyeurs* states it to be as close as it could be twelve to eleven Kammerer says there was actually no vote, reminding us that according to custom the president of the Council simply summed up the opinions after inquiring of each member [1] Opposed to an armistice were, of course, many of those who later became leaders in the resistance or in the provisional government at Algiers, or still later important persons in the government of the Fourth Republic Such were Jeanneney and Herriot, presidents respectively of the Senate and the Chamber, Mandel, Marin, Campinchi, Delbos, Monnet, Queuille, favoring it, beside Pétain and Weygand (Minister of War in the new cabinet), were Laval, Chautemps, and others who have already paid the penalty for their lack of vision and courage, if not by loss of life or by imprisonment, certainly by that "national

[1] See *La Verité sur l'Armistice* (Paris, 1944), p 153 Reynaud himself, in his *La France a Sauve l'Europe* (Paris, 1947), gives, oddly, no information on this point See vol II, p 365 After a rather exhaustive study Theodore Draper in *The Six Weeks War* (New York, 1944), concludes that the vote was fourteen for an armistice, ten against, and includes Queuille among the defeatists It should be remembered that Pertinax is bitterly anti-Reynaud

degradation" which has been included in many sentences but which it hardly requires a court to impose ✓

Pierre Laval, whom the victory of the popular front had removed from power and whom his secret dealings with Mussolini over Ethiopia had compromised, saw in the defeat of France the opportunity for not only a political comeback but a personal revenge Needing a shrewd intermediary in parliamentary circles, Pétain offered him the vice-presidency of the Council of Ministers, whereat the President of the republic, showing admirable but all too rare independence, protested "It is not possible that you should introduce into the government a corrupt man who is certainly the agent of the conqueror," and refused to sign the decree But Pétain insisted that the "Senator from Puy-de-Dôme is the only French politician capable of negotiating effectively with Hitler" Lebrun gave way Would the government remain at Bordeaux, which was about to be occupied by the enemy? The Minister of the Interior proposed to move to Lyon or Toulouse, but Laval objected that in either of those two democratic cities the government would risk being subjected to unfriendly local influences—in Lyon under Herriot, in Toulouse under Sarraut He insisted on his own home town, Clermont-Ferrand, but finally compromised on the nearby resort of Vichy, where the ministries could be accommodated in sumptuous hotels Promptly a decree summoned the Chamber and the Senate in extraordinary session for July 9 About two-thirds managed to get there, and Herriot after calling the exhausted and perplexed deputies to order announced that he had received from the head of the government a resolution which he wished adopted pertaining to the revision of the constitutional laws of 1875 It was simple, as yet committing them to nothing "*Single article* The Chamber of Deputies declares that it is proper to revise the constitutional laws" No discussion ensuing, it was voted by 395 to 3, and some abstentions Among the 395 were Flandin and (surprisingly) Reynaud, Blum abstained

Jeanneney opened the session of the Senate with absurdly sycophantic words which he was soon to eat, but which showed how general, at that time, was the feeling toward Pétain among those who still thought of him as the savior of Verdun "I testify to Marshal Pétain our veneration and the great gratitude which is due him for the renewed gift of his person We know the nobility of his soul It has given us days of glory, we have no doubt that it will be equally great in these days of trial and will forearm us, if need be, against all discord" And the project for constitutional revision was adopted by 229 to 1

Accordingly a joint session of the two bodies was necessary In conformity with the law of February 25, 1875, which required a session of the two chambers meeting as the National Assembly in case of revision of the constitution, the two met the next day All was in due form, the same procedure had been followed in 1879, in 1884, and in 1926 Then only partial and

relatively unimportant changes were projected, this time it was a question of eradicating the whole instrument under which France had lived for sixty-five years But there were some absentees, who probably would have shown the same courage at Vichy that they had shown a month earlier at Bordeaux. Just before the armistice, about seventy deputies and senators had gone to North Africa with the hope of persuading the President of the republic to set up a legal government which could carry on the war Frossard, Minister of Public Works, who favored the armistice, had said to the Chamber at its session of June 19 "The government has decided to continue resistance in North Africa Accordingly the members of Parliament are invited to leave for Africa with their families, 600 places are reserved for them [on the S S *Massilia*, moored in the river Gironde] Marshal Pétain will remain at Bordeaux with three ministers to await the enemy army "

There are two points of view to be considered when judging this message It was either treachery—a desire to get rid of those democratic members of Parliament who wanted to continue the war, or at least set up a government in exile as did the Dutch, Norwegians, and others, or it was a benevolent desire to assist those who for various reasons (some perhaps personal) wanted to go The belief that it was treacherous is supported not only by Frossard's character but by the number of places reserved on the ship—enough to preserve the legality of the chambers Why the President of the republic and the presidents of the two chambers did not leave has never been clear[2] There were enough who did go so that their absence on July 10 became conspicuous, perhaps important Though their votes would not have affected the verdict which slew the republic, their protests would have helped to save the dignity of a French Parliament Those who left on the *Massilia* were landed at Casablanca Some went to Algiers, others managed to return home

And so on July 10 Laval in the name of the government moved a proposition for the revision of the constitution in these terms

"*Single article* The National Assembly confers all powers upon the government of the republic, under the authority and signature of Marshal Pétain, with a view to promulgating by one or more acts a new constitution of the French state This constitution must guarantee the rights of labor, the family and the fatherland It will be ratified by the nation and put into effect by the assemblies which it will have created "

A text insipid, banal, vague, but at the same time, of course, profoundly reactionary, since, without any reservation, it conferred upon one man absolute power, both executive and legislative Such was the sustenance offered to

[2] Lebrun, *Temoignage*, has nothing to say on this and says only, when testifying at the Petain trial (*Procès de Petain*, p 55) in reply to a question from a juror, "My personal opinion is that we should not have made the armistice, since I was in favor of going to Algeria "

a country hungry for stability and precision, for definite reform and concrete reorganization

The amenities were preserved The resolution was referred to the proper committees for study and recommendation, which took all of two hours It was then time to vote, but there was to be no oratory, no explanation of one's voting, the Laval gang had directed the sergeants at arms to stop any who wished to mount the platform in order to make a speech By 569 against 80 the proposition was adopted whereby the National Assembly ended both its own life and that of the republic One last cry, from a Radical Senator, of "Long live the republic, just the same!" greeted the announcement of the result But 198 did not or could not vote Why some of those who were there abstained is mysterious, why could not such good republicans as Queuille and Monnet make up their minds? Most ironical of all, President Lebrun had to sign the decree ending his office It would in a sense have been easier for him to resign and in his perplexity he took counsel of Jeanneney and Herriot, to whom he said "The National Assembly in 1939 conferred upon me, for seven years, the powers placed upon the President by the constitution It can take them away from me If it does, let it, and not me, take the responsibility I shall not desert my post" And so he awaited Pétain's visit Three days later the marshal said to him "Mr President, the painful moment has arrived You have well served the country, and yet the vote of the National Assembly creates a new situation I am not really your successor, since an entirely new regime is beginning" Lebrun retired to his home near Grenoble but in 1943 he shared the fate of other important persons after the American landings in Italy, and was imprisoned in Germany He died in March, 1950

Is it correct to say that the republic was murdered when, after all, the constitution was revised in accordance with legal requirements? As a witness against Pétain, President Lebrun was asked by a juror (and the members of the jury seem to have taken a remarkably large part in the trial) whether in his opinion the National Assembly had been legally summoned, and hence whether its action was constitutional, in other words—by implication—can a Parliament constitutionally abrogate a constitution? Lebrun had to admit that he thought all was in proper form, he only objected to the unseemly rapidity with which it was done, which he was sure simply conformed to the wishes of Pétain and Laval, who in turn were pressed by the Germans to set the new regime going without further delay It is a little surprising, however, that Lebrun should be silent regarding the one thing which perhaps does throw doubt upon the legality of the change the law of August 14, 1884, which says that "the republican form of government cannot be the subject of a proposition of revision" The men of Vichy would answer this by denying that the republic had died, they simply gave France another kind of republic We shall see how different But every dictatorship wants and needs a legal basis Hitler was "asked" by Hindenburg, Mussolini was "called in" by

Victor Emmanuel after the last constitutional Prime Minister, Facta, had failed to advise him

> It is true that the French state is legally the heir of the Third Republic. To contest it would be to deny the facts Nevertheless that formal legality was invalid since there can exist no legality without legitimacy And a regime incapable of assuring the defence of the inalienable rights of the sovereign nation, at bay, despoiled of all effective sovereignty, could not boast of any legitimacy It is not in the power of any country, any regime, whatever it may be, to alienate or betray the national sovereignty and independence, sacred and inalienable heritage which each generation owes to itself to transmit intact to succeeding generations No one has so well defined this inalienability of sovereignty as Rousseau in the best pages of his *Social Contract* (bk II, chaps 1, 2) (J Debru-Bridel, *Les Partis contre De Gaulle* (Paris, 1948), p 20 )

## *INTERLUDE AT VICHY*

No more than a day elapsed before Pétain had taken full advantage of the powers conferred upon him Firstly, he proclaimed himself "Chief of State" and suppressed the presidency of the republic Secondly, abrogating Article 2 of the constitutional law of February 25, 1875, he attributed to himself all power both executive and legislative "He names and revokes the ministers and secretaries of state, who are responsible only to him He exercises legislative power He promulgates the laws and assures their execution He nominates to all civil and military posts for which the law has not foreseen any other type of designation He disposes of the armed forces He has the right of pardon and amnesty Envoys and ambassadors of foreign powers are accredited to him He negotiates and ratifies treaties He can declare a state of siege in one or more parts of the territory " Fourthly, the marshal reestablished as it were, the hereditary principle of the ancient monarchy and named the "crown prince" appointed to succeed him, who was of course none other than Pierre Laval How interesting it would have been if Pétain had had a son!

Twice after June 16 he reshuffled his cabinet, with little real significance, then on December 13 he dismissed the heir apparent Laval was replaced as vice-president of the Council of Ministers by Admiral Darlan, and Baudouin gave way as Minister of Foreign Affairs to Flandin, considered, according to the official communiqué, as being "more apt than his predecessor to conduct, with the support of public opinion, a policy of collaboration between France and Germany " Evidently Laval had gone too far But three months later, in February, 1941, Flandin gave way to Darlan, who became a French Poo-Bah vice-president of the Council, Secretary of State for Foreign Affairs and also for the Navy, and named as successor to the Chief of State During all of 1941 it was a continual coming and going of ministers and subministers, but finally Laval staged a striking comeback Probably as the result of Ger-

man pressure, the marshal on April 17, 1942, asked all his underlings for their resignations, and Laval became president of the Council

At this point someone may well raise the question of moral complicity with Pétainism, defeatism, and collaborationism Is everyone who took service at Vichy to be tarred with the same brush as that which so blackened Laval and Pétain, in other words, a Minister of Agriculture, or Labor, or Commerce—the nonpolitical, purely administrative posts—those who carried on the services necessary to the daily functioning of the lives of the people? In the days of the Third Republic, when the decisions of the cabinet were taken by collective responsibility, each member shared the consequences, in the so-called cabinet of Pétain, no one had responsibility except for the conduct of his own department Yet they were by his side, in theory at least, when he or his vice-president pressed ever closer for collaboration, if any were not yesmen they could have shown their feelings by resigning If they did not, they cannot wholly be absolved Each has been judged on the merits of his own case and more than one has met the supreme penalty [3]

For four years the words "French Republic" were banished and were replaced by "The French State" The *Official Journal of the French Republic* became the *Official Journal of the French State* In the city halls, the courts of Justice (sic), the traditional bust of the young republic gave way to the portrait of the senile marshal For the proud device of "Liberty, Equality, Fraternity" was substituted "Work, Family, Fatherland" And as hatred of democracy is always accompanied by the fear of universal suffrage and violation of its decisions, the representatives of the people were eliminated, not only were the two chambers never again convoked, but their offices and clerks were removed from Vichy and exiled to Chatel-Guyon, then shortly after dissolved entirely The general councils, whose functions were essentially administrative and which in the departmental setup rendered incontestable services, were not spared, their sessions were ended by a law of

[3] The record of Flandin's trial has been published (*Le Proces Flandin Devant la Haute Cour de Justice*, July 23-26, 1946, Paris, 1947, 405 pp) He was "declared guilty of having belonged to the Vichy government" and consequently was condemned to the penalty of five years of national degradation, but the penalty was immediately commuted on account of the services rendered by him to the resistance On the other hand, nothing seems to have happened to Joseph Barthelemy, Petain's Minister of Justice, France's greatest authority on constitutional law, to whose writings references have been made in these pages Pierre Pucheu was the first high Vichy administrator to be tried and executed (March, 1944) He was Minister of Industrial Production and later Minister of the Interior, from February, 1941 to April, 1942 The fact that he was acquitted of "subverting the internal security of the French state" means that the Petain regime was not indicted so far as domestic affairs were concerned Probably the trial was premature, because all the evidence could not at that time be assembled

Reference has already been made to Petain's trial Others which have been published in full are those of Laval, the journalists Suarez, Beraud, and Brassilach, the collaborationists De Brinon, Darnand, and Luchaire—all of whom were executed, except Beraud

October 12, 1940, which replaced them by departmental commissions composed of appointees of the prefects, but even these soon became a dead letter Nearly all the mayors and municipal councilors of the Third Republic were dismissed and communal administration was confided to notorious reactionaries most of whom had been unsuccessful candidates at a previous election

In a message on April 14, 1941, the marshal openly showed his scorn of universal suffrage "Authority does not come from below It is properly that which I confide or which I delegate The authority of political parties is suspended until further notice Parties cannot henceforth hold either public or private meetings They cannot post notices or distribute any other kind of publicity" Thus, neither Senate nor Chamber, neither departmental nor municipal councils, interdiction of all expression of opinion, absence of all public life such was the regime which in so-called free France, under the name of "national revolution," the men of Vichy tried to impose upon a nation which had proclaimed and repeated the rights of man and of the citizen

It is this "revolution" which declared war on Freemasonry [4] and Jewry, and redoubled its violence against the Communist party Doing what neither the Bourbons nor the two Napoleons had dared to do, Vichy, by a law of August 9, 1940, decreed the dissolution of Freemasonry, confiscated its property, and condemned to two years of imprisonment those who might attempt to reconstitute a lodge Hence a number of functionaries attached to the magistrature and to important administrative posts were dismissed Anti-Jewish legislation steadily grew in intensity The Nazi government had managed to keep track of many German Jews who had taken refuge in France, and those who could not escape to America or England or Algeria were handed over Some managed to cross the Pyrenees, even Franco Spain was better for them than the country which was the traditional shelter for political exiles

From Pétain downward the government of Vichy was one of illusion—illusion that the Germans would behave with honorable moderation, illusion that France would approve the authoritarian rule of an octogenarian, illusion, in short, that the war, the class struggle, and the conflict of parties were all at an end Vichy seemed to have discovered the secret of peace, but it was only the calm at the center of a tornado Vichy was not fascism, if it was anything it was a last appearance of the complacent, urbane administrators without any belief except in their own wisdom, who had once sustained the monarchy and had been defeated in 1877 with MacMahon (with whom in some ways Pétain can be compared) Vichy repudiated the republic without attempting to provide a substitute for it

The original intention of Vichy, as Du Moulin de Labarthète reminds us

[4] See M J Headings, *French Freemasonry Under the Third Republic* (Baltimore, 1949)

more than once,[5] was to bring France to convalescence, not to carry through a counterrevolution, hence there was to be no political excitement or dispute, "only clean sheets and quiet voices." But convalescence cannot drag on indefinitely. When it became clear that Germany would neither win the war nor be soon defeated, the men of Vichy had to seek some more serious justification of their rule. So the "national revolution" was intensified, each minister riding his particular hobbyhorse, to the confusion of the Chief of State, whom each subordinate found it easy to persuade provided he could talk with the old man early in the day before fatigue set in. Outside the cabinet he was still more confused when the true Fascists tried to tell him that they had a more genuine revolution to offer.

Some of those who first took over at Vichy, like Baudouin,[6] thought of the armistice as a pause and no more; it was their greatest illusion that somehow, at some point, they would be able to renew resistance to the Germans—without arms, without enthusiasm, without a following in France. Little by little Pétain became softer clay in the hands of Laval and Darlan, his final, decisive mistake was to fail to withdraw from France on November 11, 1942, when the Germans overran the whole of the country after the landings in North Africa. The essence of Vichy was the refusal to believe in France and yet to pretend to avoid the consequences. Pétain believed in France too little, De Gaulle too much, hence one is in prison and the other out of office, probably for good. No doubt Pétain, with his skeptical defeatism, represented the France of 1940, his crime was to insist that France must always remain in this frame of mind, so that he could remain in power. The men of Vichy were ingenious, industrious, sometimes even idealistic. But they forgot that so long as England remained undefeated there was good hope for a better world, that so long as the Germans were in France the supreme task was that of liberation. From Pétain to the humblest officer (who after all had to take his cue from a marshal of France), the men of Vichy waited for the liberation to be brought about by others. They continued to think of regeneration when they should have been thinking of resistance.

This is not the place to tell the story of the resistance. Suffice it to say that its beginning antedates the American landings in November, 1942, which means that without the certainty of help from outside and with either homemade arms or those they had contrived to hide at the time of the armistice or with a few weapons dropped by parachute, the F F I (French Forces of the Interior), making their headquarters largely in the mountains of the east and southwest, amounted in two years' time to a total of 45,000. Against these

[5] H. du Moulin de Labarthète, *Le Temps des Illusions. Souvenirs, 1940-1942* (Brussels, 1949). This is by Petain's civilian private secretary (*chef de cabinet civil*) from July, 1940, to April, 1942, when the return of Laval drove him out.

[6] Petain's first Foreign Minister, July to December, 1940. See his *Private Diaries* (London, 1948).

the Vichy militia (largely recruited from convicts) was ordered to proceed, and the resulting civil war saw the murder of patriots like Zay, Mandel, Sarraut, Darmoy, who, veterans in the politics of the Third Republic, but with a vision and a plan for the new France, would have rendered inestimable service to the liberated nation

## *BACK TO CONSTITUTIONALISM*

On August 26, 1944, De Gaulle entered Paris and shortly after, as President of the provisional government, formed his ministry One of its first acts, for the sake of legality rather than practicality, was to issue a decree declaring the Vichy legislation null and void Its first article read "The form of government in France is and remains the republic In law it has not ceased to exist" The first political manifestation of the restoration of democracy was the municipal elections of April and May, 1945 Party congresses resumed their old activity During that summer were held the tenth congress of the Communist party, the thirty-seventh congress of the Socialist party, the thirty-sixth congress of the Radical-Socialist party The first national elections came on October 21, 1945, when the French people were called upon to elect representatives to the Constituent Assembly In part the election took the form of a referendum, in part it was to designate the members of the Assembly according to the rules of proportional representation The first part included two questions (1) Do you wish that the Assembly to be elected at this time should be a Constituent Assembly, (i e, charged with drawing up a constitution?) (2) Do you approve of the public powers being organized—up to the establishment of the new constitution—in conformity with the dispositions of the project of law of which the text is given on the other side of this ballot? (That text limited the powers of the Assembly, fixed its duration at seven months, and guaranteed against all risks the existence of the ministers—an insurance policy never before taken out!) In favor of the first question the majority was 14,500,000, in favor of the second, nearly 5,500,000 majority

By routing not only the right-wing factions but the Radical Socialists, dominant party of the conservative middle class for nearly fifty years, the electors turned their backs, more decisively than had been expected by most, on the political institutions and leaders associated not only with Vichy but with the Third Republic as well The very size of the vote emphasized the widespread determination to wipe clean the political slate, for no less than 82 percent of the registered voters went to the polls Of the 586 seats 435 went to the Communists, Socialists, and Popular Republican Movement (M R P), so it seemed clear that the Fourth Republic would continue the leftward swing that had become the standard political trend throughout postwar Europe Already it was apparent that the new dividing line would be drawn not between the right and the left in general, but between the Communists and the democratic left, and for a while the strongest single source of opposition

to the Communists came from the M R P, a predominantly Catholic party, which grew up during the resistance among liberals and former supporters of the right who detested collaboration (even though it had many churchmen heading it) but were at the same time unwilling to embrace what they considered the materialistic and extremist goals of the Socialists and Communists To be sure, the M R P had only 150 seats in the new Assembly which met on November 6, as compared with the Communists' 151 and the Socialists' 139 But the M R P served for a while a very useful purpose—as a reminder that there remained in France a large group of substantial people who insisted on combining nationalization of certain key industries with individualistic patterns of life based on private property

It will be recalled that the second part of the ballot in the October election provided for the provisional organization of the government, and by the large majority already mentioned the voters approved of the law, formally promulgated on November 2, providing, in summary, that

> Article I The Constituent Assembly, resulting from the elections of October 21, 1945, will proceed immediately with the election of the President of the French Republic by an absolute majority and public vote of Assembly members The President will form his cabinet, and will submit it to the Assembly for approval, together with the government program Article II The Assembly shall draw up the new constitution Article III The constitution adopted by the Assembly shall be submitted to the electoral body of French citizens for approval, through a referendum, which will take place during the month following its adoption by the Assembly Article VI The powers of the Assembly shall expire on the day when the new constitution is put into effect, at the latest, seven months after the first meeting of the Assembly Article VII In the event that the voters reject the constitution drawn up by the Assembly or if the latter has been unable to draw up a constitution in the length of time prescribed in Article VI, then under the same forms the election of another Constituent Assembly would take place immediately The new Assembly would have the same powers, and would meet automatically on the second Tuesday after its election Article VIII The present law, adopted by the French people, shall have constitutional power, and shall be enforced as a state law

Practically the first action of the Assembly, on November 13, 1945, was to elect Charles De Gaulle President of the provisional government The drafting committee set to work without delay on the new constitution, which it brought in to the Assembly on April 19, 1946 Its main features were a single legislative chamber with broad powers and a weak executive The Assembly approved it by a Communist-Socialist majority, but it was opposed by the M R P, the Radical Socialists, and other moderates It was defeated on May 5 by a vote of 10,270,000 to 9,109,000 The defeat of the constitution reflected

not so much popular opposition to the details of the instrument as fear that the Communists could use it to seize power through the strong unicameral legislature on which they had particularly insisted in the Constituent Assembly It was necessary now to seek a new compromise which would check the all-powerful legislature by a strong executive (which turned out to be as weak as ever) but one not strong enough to jeopardize responsible government, and a second Constituent Assembly was elected on June 2 It spent a hectic summer and adopted a revised constitution on September 29 (See Appendix ) Since it added a weak upper chamber it would have faced the opposition of the Communists had not De Gaulle in August issued a blast against it, stressing especially the "dangerous" weakness of the executive, although the presidential power had been somewhat increased over that given him in the first constitution [7] Since De Gaulle was against it the Communists were for it, upper house and all A sop was thrown to them in the form of a reservation that the Council of the Republic should be denied the right to overthrow cabinets They also accepted the traditional right of the President to name the Premier, but insisted that the Premier must be approved by the Assembly before he could form a cabinet, thus making for greater ministerial stability The drafting committee, after unanimous approval, sent on its work to the Constituent Assembly, which passed it by a vote of 440 to 106

Its president, Vincent Auriol, shortly to be elected first President of the Fourth Republic, in ending the life of the Assembly quoted from the speech which Benjamin Franklin made on the last day of the American Constitutional Convention (September 17, 1787)

> I confess there are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them, for, having lived long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions, even on important subjects, which I once thought right but found to be otherwise
> I doubt too whether any other convention we can obtain may be able to

[7] De Gaulle had resigned as President of the provisional government on January 20, 1946 He had formed a tripartite government in the preceding November and had declared his willingness to work with the Communists (to whom he was grateful for their part in the resistance), but he indicated that he would not permit them to hold any of the three key posts in the cabinet He could, however, control things only as long as he was able to count on the Socialists as well as the M R P But on January 1 the Socialists parted company with him when he presented a demand for a large military budget He bitterly complained that they had formed an entente with the Communists, which they as vehemently denied, pointing out that they have always opposed a large standing army, not only because of their conviction that money and man power expended on the military could be more constructively spent on production of civilian goods but because of fear that the army might be used in a rightist coup The whole episode, moreover, illustrates De Gaulle's ambition that France must continue as a great power, and for that a large army, he believes, is necessary

## Structure of the Government

### Executive

*President of the Republic*

Elected by Parliament (both houses sitting together) for 7 years, may be reelected once
All acts must be countersigned by president of Council and appropriate minister
Promulgates laws (10-day suspensive veto)
Signs and ratifies treaties
Appoints most high civilian military officials
Issues pardons
Decrees dissolution of National Assembly after decision of Council of Ministers

*Council of Ministers*

Selects ministers
Insures execution of laws
Supervises armed forces and national defense
Appoints all civilian and military officials except those named by President of republic
Initiates laws in National Assembly

*Ministers*

Individually and collectively responsible to National Assembly
Countersign acts of president of Council which concern their department
Council may decide dissolution of National Assembly after two ministerial crises in 18 months (except during first 18 months of legislative term)

### Legislative

*Parliament*

I Council of the Republic
- Elected for six-year term by indirect suffrage by "communal and departmental collectivities," though one-sixth *may* be elected by the National Assembly
- Elects the President of the republic (with the National Assembly)
- Suspensive veto over laws (except budget)
- Members may introduce bills for discussion by National Assembly
- Opinion required before state of war can be voted by National Assembly

II National Assembly
- Elected for five-year term
- Confirms newly designated president of Council of Ministers
- May overthrow ministry by absolute majority of total membership (after one day "cooling-off" period)
- Possesses sole legislative sovereignty (which cannot be delegated)
- Votes state of war
- Initiates constitutional amendments

*Committees*

Constitutional Committee (12 members—chosen [7] by National Assembly, [3] by Council of Republic, President of republic, president of Council of Ministers) examines new laws for compatibility with constitution

Economic Council (164 members—chosen by various professional groups) opinion required on proposed laws of economic or social nature (except budget) Advises Council of Ministers on national economic plan

make a better constitution For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views From such an assembly can a perfect production be expected? It therefore astonishes me, sir, to find this system approaching so near to perfection as it does Thus I consent, sir, to this constitution because I expect no better, and because I am not sure it is not the best The opinions I have had of its errors I sacrifice to the public good

I have never whispered a syllable of them abroad Within these walls they were born, and here they shall die [8]

The quotation, more realistic than optimistic, is but further proof, if any were needed, of the ability to compromise which is the primary requisite of a constitutional convention On October 13 the people adopted the constitution by a vote of 9,000,000 to 7,830,000 But more abstained from voting than voted against it, giving rise to De Gaulle's gibe that it was a minority constitution, since those in favor numbered only 36 percent of the qualified electorate A month later the people of France wearily trudged back to the polls, for the fifth time in little over a year, to elect their first National Assembly The Socialists lost, so did the M R P, and the Communists gained The popular vote

| | October, 1945 | June, 1946 | November, 1946 |
|---|---|---|---|
| Communists and allied groups | 5,004,121 (25 1%) | 5,145,325 (25 98%) | 5,475,055 (28%) |
| Socialists | 4,491,152 (23 4%) | 4,187,747 (21 14%) | 3,454,080 (17 5%) |
| M R P | 4,580,222 (23 9%) | 5,589,213 (28 22%) | 5,033,430 (26 3%) |
| Radical Socialists, U D S R, etc | 2,018,665 (10 6%) | 2,299,963 (11 6%) | 1,971,660 (10 3%) |
| Right-wing groups | 3,001,063 (15 83%) | 2,438,167 (12 83%) | 3,136,630 (16 4%) |

Distribution of seats was as follows [9]

| | 1st Constituent Assembly | 2nd Constituent Assembly | National Assembly |
|---|---|---|---|
| Communists | 152 | 146 | 168 |
| Union of Republicans and Resisters (M U R F) | 9 | 7 | 15 |
| Triumph of Democratic Liberties in Algeria | 0 | 0 | 5 |
| Algerian Manifesto | 0 | 11 | 0 |
| Socialists | 143 | 129 | 105 |
| U D S R | 29 | 21 | 27 |
| Radical Socialists | 28 | 32 | 43 |
| Algerian Moslems | 7 | 0 | 6 |
| M R P | 150 | 169 | 167 |
| Peasant Group | 10 | 9 | 8 |
| Independent Republicans | 19 | 23 | 28 |
| P R L | 35 | 35 | 35 |
| Madagscar Nationalists | 2 | 2 | 3 |
| Independent | 2 | 2 | 8 |

President Edouard Herriot (Rad Soc), reelected Jan 9, 1950

[8] Text taken from Carl Van Doren, *Benjamin Franklin* (New York, 1938), p 753 It is incorrectly translated and quoted in Hanotaux, *Contemporary France* (London, 1907), vol III, p 286

[9] With the exception of what Gordon Wright calls the "monolithic parties," the figures for the National Assembly are not necessarily accurate from year to year, since party affiliations fluctuate with a flexibility not known to English or American political life

The National Assembly opened its initial session on November 28, 1946, and the last ministry under the provisional government was formed with Léon Blum as president For the first time since liberation, the cabinet was formed on strictly party lines, since the Communists would enter the ministry only on condition of holding the Ministries of National Defense and Agriculture, Blum perforce established an all-Socialist government But that was important only as a portent, since the Fourth Republic was clearly about to supersede the provisional government The final steps necessary to bring the new constitution into effect were taken with the election of members of the Council of the Republic This fairly complicated procedure calls for 253 members to be elected by indirect suffrage from the *départements* of metropolitan France, 14 by indirect suffrage from the three Algerian *départements*, 44 by the Assemblies of Overseas France, 9 representing French citizens residing in overseas territories Eight different elections are necessary before the entire 320 members can be chosen

The Council of the Republic, 1948

| | |
|---|---|
| Communists | 21 |
| Socialists | 62 |
| M R P | 18 |
| Radical Socialists (including 22 named by the R P F) | 101 |
| Independent Republicans (including 23 named by the R P F) | 61 |
| Peasant Group (including 7 named by the R P F) | 23 |
| Republican Liberty party (including 9 named by the R P F) | 21 |
| R P F (not including those Gaullists listed above) | 56 |

President Gaston Monnerville (Rad Soc.), reelected Jan 9, 1950

On January 16, 1947, Vincent Auriol was elected first President of the republic The voting was by secret ballot and by an absolute majority on each ballot The constitution contains no specific provision on the important question of the manner of electing the President and the majority necessary to elect him It was upon the suggestion of the chairmen of the different party groups who met together on the eve of the election that Parliament decided, before beginning the election, to vote by secret ballot with an absolute majority on each ballot The candidates were Vincent Auriol, Socialist, president of the National Assembly, Champetier de Ribes, M R P, president of the Council of the Republic, Jules Gasser, *Rassemblement des gauches*, vice-president of the Council of the Republic, Michel Clemenceau, Republican Party of Liberty, member of the National Assembly Unexpectedly the Communists put forth no candidate, but instructed their members to vote for Auriol, who was elected on the first ballot and was immediately driven to the Elysée Palace Born in 1884, he comes from a family of peasants who had long lived in southwestern France He resolved to study law and received his doctorate in political science, practicing in Toulouse He was elected a deputy in 1914 and reelected ever since He was Minister of Finance in the first Blum ministry and his war record is stainless, voting against

plenary powers for Pétain, he was imprisoned but escaped to Algiers, where he became president of the Socialist group in the Consultative Assembly

His first act as President was to ask Paul Ramadier, Socialist, to form a ministry The latter was given a vote of confidence by 549 votes, with none opposing The first cabinet of the republic was large, including twenty-five members, well distributed among five parties One of the two vice-presidents was Maurice Thorez, the Communist chairman, and another Communist became Minister of National Defense In April a series of strikes broke out, to protest against the government's stabilization policy, which required that wages remain frozen until the summer crops, the beginning of the tourist trade, and other supposedly favorable factors should ease the situation But the cost of living continued to soar, the 1947 harvest did not come up to expectations, the coal production had slowed down, and dollar credits were dwindling When the Communists threw in their lot with the strikers, the Premier asked their ministers to resign for the sake of cabinet harmony, and when they did not, they were expelled They have stayed out ever since Perhaps an equally valid reason for their departure was the government's fear that American aid would be jeopardized with Communists in the cabinet

Meantime De Gaulle was capitalizing on the insistence of Ramadier upon a coalition government, saying that the Communists had made it impossible This was hardly true, since the new government, formed after the expulsion of the Communists, included not only Socialists and M R P but five Radical Socialists and two right independents Nevertheless, the cabinet, whatever parties it represented, seemed unable to cope with the worsening economic situation The continued excess of imports over exports placed such an intolerable burden on France's limited means of payment that on August 26, 1947, it had to suspend all imports from the dollar countries except cereals, coal, fats, and oils These developments—whose cumulative effect caused the government to cut bread rations to the quite inadequate level of 200 grams a day—made it easy for the Communist-led trade unions, as a part of the Cominform campaign against the E R P (Marshall Plan), to organize a further series of disruptive strikes in October

## *DE GAULLE*

All this was grist to De Gaulle's mill He had announced in April that the time had come for a new party, one that would be courageously and consistently anti-Communist, the movement would be called *Rassemblement du peuple français* (Rally of the French People) The October strikes did much for its growth, and in its first test, the balloting for municipal councils on October 19, 33 1 percent of the total votes were cast for it, 38 4 percent if coalition lists are included It had received more votes than its nearest competitor, the Communist party, which polled 30 6 percent

The R P F is not a party, but a group, in this it is not unique in French

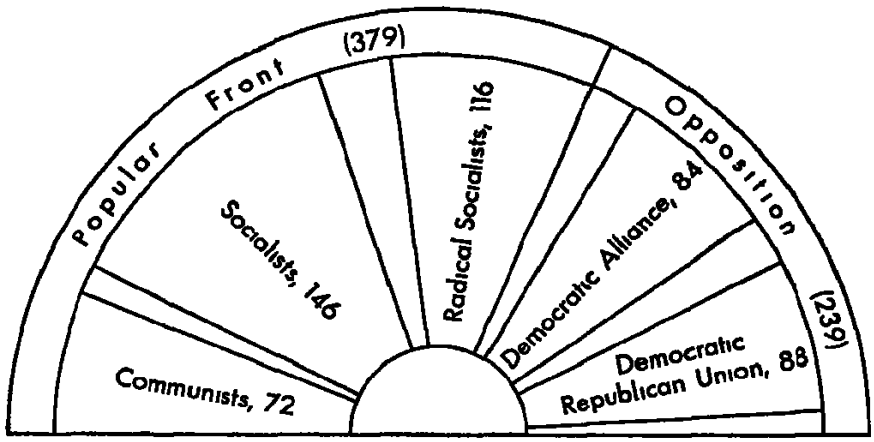
politics, for something of a parallel on the other side of the chamber, one might refer to the popular front of 1936 There are, however, more contrasts than similarities between the two Blum's was more of a humanitarian series of abstractions, unfitted in practice for the critical year 1936, although De Gaulle's is also vague,[10] he has an opposition—communism—infinitely more dangerous than the rightist opposition which blocked Blum's reforms, an opposition which to many justifies the use of strong, even neo-fascist, measures Then too there is the obvious contrast in leadership

The De Gaulle movement is founded on the opinion, widely held among Frenchmen of all classes, that communism is the cause of all French troubles and that democratic machinery is inadequate to cope with it Underlying the movement is the conviction that a drastic overhauling of democratic institutions is needed if French democracy is to overcome the threat of communism One cannot in characterizing Gaullism use any more extreme word than neo-fascists, and many of De Gaulle's followers would object even to that He proclaims that he does not want to take power except by the popular will, expressed in a free election The movement is not, strictly speaking, reactionary, it is nationalist but not traditionalist, and prefers to shape the future without reverting to the past It is the past which is abhorrent to the Gaullists, since to them the past means the Third Republic What is their ideal republic? De Gaulle envisages a president of the republic who would be elected by local assemblies totaling 100,000 to 150,000 electors The president would choose the premier, who would be responsible to the Assembly If the premier were overturned by the Assembly, the president would then have a choice of naming a new premier or dissolving the Assembly The authority of the president deriving from his power of dissolution would be large, since deputies would think twice before exposing themselves to the danger and expense of a new election To prevent a stalemate between president and Assembly (and the resulting temptation to a coup d'état) provision is made, in the planning, that, if the same majority is returned and if after the elections the new premier chosen by the president is overturned at once, then the president himself retires By means of these arrangements—"half French and half Anglo-Saxon" —the Gaullists believe that a greater measure of political stability, which all agree is so badly needed, can be achieved [11]

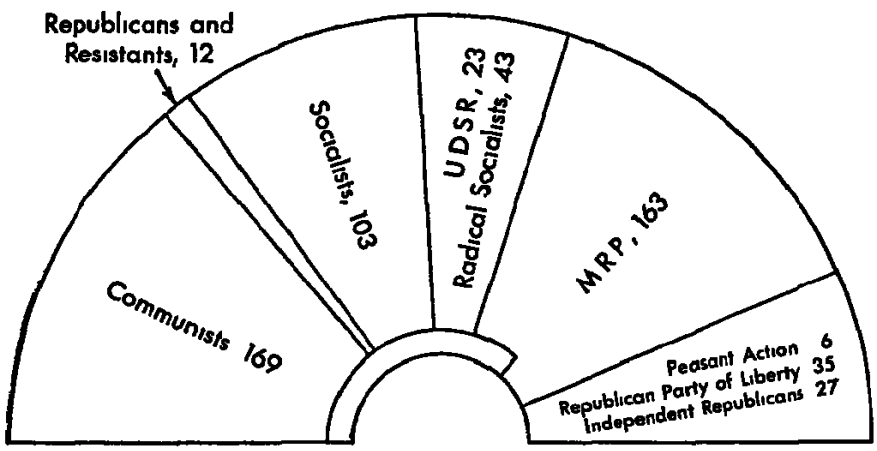
[10] One prominent American tried for forty-five minutes to elicit from him the elements of his program and said it was "like trying to grasp a cloud"

[11] The sketch of De Gaulle's political program is taken from D C McKay, "France Revisited," *Yale Review*, Autumn, 1947, 37 110-128 See also Henri de Kerillis, *I accuse De Gaulle* (New York, 1946), in which a former member of the Chamber of Deputies (who voted against Petain in 1940) presents a strong indictment of De Gaulle as a political leader Since the author believes that the Free French movement should have remained a purely military organization, he shares the view held so tenaciously by the State Department during the war Cf W L Langer, *Our Vichy Gamble* (New York, 1947)

To seek a revision of the constitution only two or three years after it went into effect, before it had been fairly tested, does not speak well for the popularity of the new republic A dynamic leader, one with persuasiveness, clarity, and charm as well as energy, might make France fear for her present institutions But the French have been traditionally suspicious of generals in politics, and they feel that De Gaulle has too often been tactless in his administrative and political activities, too hard to get along with He does not




THE CHAMBER OF DEPUTIES
Elections of 1936




THE NATIONAL ASSEMBLY
Elections of Nov 10, 1946

know how to inspire affection, for, he would say, to try is a sign of weakness There has been, and always will be, a feeling of deep respect and gratitude toward him for the magnificent task he accomplished in France's darkest hour, but with it goes a widespread unwillingness to accept his leadership again—at least until conditions have become considerably more desperate than they were in 1949 If he were not a patriot—according to any definition of the word—he might be tempted to work for such a desperate situation, so as to settle once and for all the clash between extreme left and right In the mean-

time, since right and left are bound to oppose each other for a long time, the moderates will govern the country

### *SCHUMAN, MARIE, QUEUILLE, BIDAULT*

The Ramadier ministry was shaken by the unexpected strength of De Gaulle's R P F, and although it was not definitely affected by the municipal elections, decided to resign in November (1947) No succeeding cabinet has included a Gaullist The Schuman ministry, which succeeded the Ramadier, included eleven members of the M R P, seven Socialists, four Radical Socialists, one member of the U D S R, and one Independent Republican The distribution of portfolios gave greater influence to the M R P. than to the Socialists, who lost, among some others, the Ministry of Finance Although Schuman left to the Socialists the responsibility for political and social order by giving the Interior and Labor portfolios to Jules Moch and Daniel Mayer respectively, the executive committee of the Socialist party expressed serious reservations concerning what it termed "the government's drift toward the Right" and imposed upon the Socialist ministers an attitude of caution which gradually weakened the cabinet In other words, most parties favor coalition government only if their own group is in the majority What the Socialists called the drift toward the right included an anti-inflation levy and increased taxation to reduce excess spending power, regulated price increases so as to eliminate the necessity for subsidies and controls and to reduce further the inflationary gap between resources and demand, lowered government spending, and devaluation of the franc The final break came on the question of military expenditures A Socialist amendment to reduce the amount was regarded by Schuman as a vote of confidence, the Socialist amendment was adopted, and the cabinet resigned

In the days of the Third Republic the President would have sent for the Socialist leader to form a new ministry, but Auriol felt that the new Premier should be a personality of the right center, a man of long parliamentary experience and great moral prestige, capable of forming a "minimum program that would be acceptable to the greatest possible number of Deputies" In effect, the need of the hour was to broaden the Third Force toward the right, so the choice fell upon André Marie, a Radical Socialist who had been a deputy in prewar days, had been imprisoned for two years in Buchenwald, and had held the portfolio of Justice in Ramadier's cabinet His cabinet took office on July 27 (1948) and included six Socialists, six from the M R P, four Radical Socialists, and two Independent Republicans Blum became a vice-president, Ramadier and Queuille became ministers of state without portfolio, Schuman continued as Minister of Foreign Affairs, and Reynaud became Minister of Finance The cabinet of stars twinkled brightly enough as long as they were separated, as a group they gave but dim light The cautious Reynaud saw no means of implementing his colleagues' project of granting

a wage increase of more than 10 percent Said he "I say now and I shall say again to the Parliament that the currency problem is at the heart of all other problems Currency reform is the central issue in the food supply problem and the price question Not only does a wage increase not help the workers in the last analysis, it acts as a boomerang against them, for the resulting increase in production costs paralyzes exports and thus prevents us from buying the foreign raw materials necessary to carry on our industries [12] Unemployment and social unrest are the end results of a wage increase policy That is why I reject it "

The Marie cabinet resigned on August 28 (1948) and Auriol sent once more for Schuman Defining his principal objective as the continued struggle against inflation by means of drastic economies and higher taxes, he was approved by the National Assembly with only the Communists against him, which is the more remarkable in view of the warning about higher taxes It is odd that Frenchmen would approve, in advance, a government which gave such notice But the vote of confidence was primarily for Schuman personally and when his cabinet came up for consideration, it was found that the non-Communist laborites served notice upon the M R P , which depended increasingly for its strength upon them, that they would drop it if it went over to the right sufficiently to vote for Schuman's financial program Schuman resigned, after a tenure of three days Undiscouraged, Auriol begged him to try again, this time giving the Socialists more representation The new cabinet was therefore attacked by the right and the Communists combined, and fell after an even shorter life, this time of hours and not of days The Third Republic's hectic ways of playing with cabinets as with ninepins seemed to be back again [13]

[12] One of the rare instances of cooperation between the labor groups occurred at this time Under the Schuman government the two leading non-Communist groups, the C F T C and the *Force ouvriere,* had dissociated themselves with the C G T's demands for higher wages, but when prices continued to rise, they finally accepted the latter's joint-action proposals The *Force ouvriere* was especially reluctant to do so because such a step would, it believed, strengthen Communist influence among the Socialist workers, the *Force ouvriere* leadership would prefer a return to decontrolled wages within the framework of the prewar collective bargaining agreements

[13] Naturally, De Gaulle profited by it politically as well as morally In the elections held in November, 1948, for the Council of the Republic the R P F won approximately 40 percent of the seats This reinforced the general's intransigence, ten days after the elections he declared that the government was "obviously cut off from the real will and sentiment of the country, and yet hangs on to power" This development also strengthened his ability to embarrass the National Assembly—which needs an absolute majority of all its members in order to override a veto by the Council—and thereby intensify his pressure for new elections Any election to the National Assembly held before October, 1951, would be of course extraconstitutional and would mean a coup d'état If he wants to come to power by electoral means, then he must, like anyone else, create a regular political party and present a clear program to the country He has constantly refused to make clear his fundamental position on the three basic problems of democratic liberty

The President finally requested Henri Queuille, Radical Socialist, to attempt to form a coalition on the basis of a political truce to "save the franc" rather than of any broad economic program In the selection of his cabinet he courageously—perhaps recklessly—avoided the touchy question of who should receive the key Ministry of Finance by taking it himself Schuman was back as Foreign Minister, and Moch, Ramadier, and Mayer were given the Ministries of Interior, Defense, and Labor The parties were represented as follows two Radical Socialists, five M R P, five Socialists, one U D S R, one P R L The failure of the two previous governments to grant pay increases (both the *Force ouvrière* and the C G T demanded an increase in the minimum wage) was resulting in greatly increased power for both, but especially for the C G T, which was of course the more intransigent of the two Moreover, the Socialists feared that the Communists would capitalize on the situation to increase the strength of the latter at the expense of the former

No economic expert, Queuille sought a compromise between the two rival schools of thought, but on the whole courageously committed himself to the financial program of governmental retrenchment and heavier taxation Shortly after he took office the new Premier stated that the budget for 1948 had been balanced This would provide a basis, he said, for the release of the "counterpart fund," consisting of proceeds in francs from the sale of goods received under the Marshall Plan These funds—much of which during 1948 and 1949 were released by the E C A—were allocated primarily to the modernization and improvement of productive facilities David Bruce, then chief of the E C A mission in France, later (1949) ambassador to France, stated that this action was taken when it became clear that "inflationary financing could be avoided" He termed the Queuille tax program "the most courageous and daring that any French government had ever instituted" [14]

The primary objective of both the Monnet Plan (see p 290) and the E C A is to develop French production to the point where France can export enough to pay for its imports To do this she will have to find new markets and expand the output of new exports for established markets Britain, for instance, because of her own rehabilitation needs, is not in a position to import on a large scale such traditional French exports as wines and silks The Monnet Plan, therefore, in 1949 underwent an important change, providing for increased agricultural production, particularly through the use of modern farm machinery, so as to enable France to furnish Britain with wheat and meat

On October 5, 1949, the Queuille government resigned It was the backwash of the devaluation of the pound, two weeks earlier, which upset it

in France as in every other country on the freedom of the individual, the rights of trade unions, and the unimpeded functioning of political parties

[14] Quoted from "France The Fourth Republic on Trial," by F W Riggs, in *Foreign Policy* [Association] *Reports*, January 15, 1949, p 210,

Communist and non-Communist unions demanded higher wages to meet the threat of higher prices as a result of the accompanying devaluation of the franc President Auriol, Premier Queuille, and Finance Minister Maurice Petsche wanted to force prices down but hold the line on wages The five Socialists in the cabinet, led by Labor Minister Daniel Mayer, wanted a broad wage increase Finally Queuille announced a shaky compromise which would lower prices of necessities by 10 percent through government subsidies Certain taxes were to be raised in order to provide the subsidies As for wages, the plan called for increases in only "abnormally low" brackets But the plan was doomed when Daniel Mayer, Socialist Minister of Labor, told M Queuille that the Socialists reaffirmed their policy of broad salary increases and indicated they would not budge from this position This stand Mayer took largely to comply with the demands of the Socialist unions—the *Force ouvrière* group—demands made to forestall the action of the Communist unions

Pending announcement of the government's financial policy, considerable confusion developed The French Ministry of Information could have used the press and radio to advantage As it was, the press was left to interpret in its own widely varying ways the devaluation of the pound, and even after the French cabinet had taken its own decision the manner of presentation was unfortunate The Minister of Information stated that the franc was to be worth 27 percent less, which not a few took to mean that it would buy 27 percent less Actually the British devaluation had been sought by the French themselves as a means of eliminating the awkward cross currency rates and of establishing greater convertibility of currencies Had Britain devalued only about 25 percent (which would have made the pound worth $3 02) instead of 30 percent (making the pound worth $2 80), the result would have coincided with the French "free" rate of about 330 francs to the dollar As it was, France had to reduce the rate by only about 5 6 percent to match the 30 percent devaluation of the pound

The technical consequences of devaluation for France were not very serious, but the dangers were exaggerated by the press and were readily seized upon by the impatient workers and the opposition parties So well did the British guard the secret of their impending devaluation that their nearest neighbors, as vitally concerned as the Americans, were caught at a serious disadvantage Moreover, it undermined the idea of European economic unity of action which had been the avowed objective of various organizations, from the International Monetary Fund to the O E E C and the Council of Europe French Socialists in particular were embarrassed because they had accepted at face value the assurances of Sir Stafford Cripps, Chancellor of the Exchequer, that devaluation would be unnecessary The Socialists were also put on the defensive by American policy, which, whether because of underlying opposition in America to socialism in general or because of sympathy for the

"sound" financial policies of M Petsche, has been interpreted in France as hostile to labor

In the background of the autumn crisis were the announcement of an atomic explosion in Russia, which increased French doubts about the security value of the North Atlantic Pact, and the rise of nationalism in Germany Curiously enough, the very stability of the Queuille government proved something of a disadvantage The diverse parties united in his coalition cabinet had held together primarily from common fear of the Communists and Gaullists As these extremist groups appeared to decline in strength the moderate groups became more ready to put their party interests above those of the coalition as a whole

President Auriol began his search for a new Premier by inviting Jules Moch, Socialist Minister of the Interior, who won a vote of confidence from the National Assembly by a majority of one and, despite this shaky beginning, attempted to form a government but found that his own party prevented his success by requiring too many, and too many key, portfolios Most Socialists were happy that he did not succeed If he had, they would have been obliged to take responsibility for some reactionary policies which even a Socialist Premier would have had to pursue That would have meant, as in the case of England after devaluation, the severe cutting back if not the destruction of social security, a retreat from nationalization of industry, and the virtual abandonment of any hope of raising the workers' standard of living

Auriol's next choice was René Mayer (no relation of Daniel), a prominent member of the Radical Socialist party, with perhaps some Gaullist leanings He had held portfolios of Transport, Finance, and Defense in four cabinets—the first De Gaulle, the first Schuman, the Marie, and the second Schuman More important than that experience was the fact that he had the confidence of big business, banks, and private industry, many believed that he could also count on support by powerful American groups Confirmed by the Assembly, he insisted on Socialist participation in his cabinet But the Socialists knew they could more effectively balk reactionary measures by threatening to withdraw support at any moment, and it was to counter the permanent threat of withdrawal that Mayer insisted on their participation Finally they agreed to enter his cabinet on condition that Daniel Mayer be continued in the same position, Labor, as he had held under Queuille Since Daniel Mayer's energetic support of the workers' demands for slightly more decent wages was the ostensible cause of the fall of the Queuille government, the right drew the line at including him The Socialists stood firm and René Mayer gave up

The crisis had now continued for nineteen days President Auriol, aging, ill, and on the point himself of resigning, was confronted with two possibilities endeavor to find yet a third Premier, or dissolution of the Assembly with new elections well in advance of those regularly scheduled for 1951.

New elections would probably not have produced an Assembly of greatly differing political complexion, since both Communists and Gaullists, who had wished special elections a year or so previously, had grown weaker during 1949 Without much confidence, M Auriol turned to Georges Bidault, former Premier and Minister of Foreign Affairs, a representative of the center group of the M R P which had not been involved in the conflict between Socialists and Radical Socialists M Bidault agreed to form a government on October 24, and began by trying to eliminate the secondary causes for the conflict He succeeded The next day Daniel Mayer asked the Socialist Party Executive Committee to relieve him of his "mission to defend within the government the social measures advocated by the responsible party organs," thus clearing the way for the building of a coalition majority At the same time M Bidault sought assurance that the parties which made up this majority would not only endorse him as Premier but would also participate in his government In this way he avoided the pitfalls of his predecessors On October 27 he submitted to the National Assembly a program of the same tenor as that of his predecessor and was endorsed by a majority of 57 votes (53 abstentions) Immediately after the vote was counted he announced the composition of his cabinet, thus putting an end to a crisis that had lasted for twenty-four days The majority given him was higher than had been expected even by his most ardent supporters In November, 1947, Robert Schuman got 412 votes Since then the Assembly has confirmed five premiers but none received more than 352, as compared with Bidault's 367

By retaining Schuman as Foreign Minister and Petsche as Finance Minister, Bidault insured the continuity of the principles that had guided French diplomatic and economic decisions, especially those dealing with European reconstruction and the African development plan On the national level, Bidault declared that the wage-price issue was linked to the country's economic recovery and that his government would concentrate on progressively eliminating the present imbalance between wages and prices,[15] agricultural and industrial prices, exports and imports In conclusion he said that the nation must make new tax efforts, while the government drastically reduces public expenditures

Throughout the last days of December, 1949, Bidault battled valiantly for government economy and increased taxation, and repeatedly made his various financial bills matters of votes of confidence Deputies overcame their traditional unwillingness to vote new taxation only because they knew what the fall of the ministry would mean—dissolution and new elections These, as

[15] It was announced in November that workers who earn 12,000 francs ($32) a month or less would receive a special bonus of 3,000 francs ($8), those earning between 12,000 and 15,000 francs would receive an amount raising their wages to the latter figure In addition, a 20 percent increase in family allowances was granted to workers in those two brackets

already stated, would be playing into the hands of the Communists or the Gaullists, then, too, many Deputies would be losing their jobs a year or more before they would ordinarily have had to face their electors

The Assembly debates on the allocation of credits necessary for the third and last increase of civil service salaries led to the resignation on June 24, 1950, of the Bidault cabinet, since the Assembly had refused a vote of confidence by 352 to 230 (An absolute majority of 311 is required on a motion of confidence ) Once more M Queuille took the helm, but the continued opposition of the Socialists prevented the confirmation of his cabinet, and the President called on René Pleven of the U D S R , who accepted the task provided the Socialists agreed to participate The Pleven cabinet resigned on February 28, 1951, in order not to bring about a possible dissolution of Parliament [16] on the issue of electoral reform, for which he seemed to have no satisfactory solution This was left for the more experienced Queuille, who formed a ministry of practically the same membership as his predecessor's, but a stop-gap cabinet in view of the approaching elections, scheduled for June 17 The Queuille election law (voted May 12) permits parties to make alliances and sweep all seats in districts where they win a clear majority This happens in perhaps a third of the 90 districts In districts where no majority appears, the seats are to be distributed by the old system of proportional representation Each party gets a slice of the cake roughly corresponding to the size of the vote The P R system is specifically retained for the Paris area, so important in any political setup The provision for alliances is of course aimed at the Communists because no other party will line up with them

[16] See articles 51 and 52 of the constitution Under the latter, the Communists would participate in the designation of the Minister of the Interior and at least one Communist Minister of State would be included in the government Accordingly a dissolution is feared and avoided at almost any cost by the other parties

## Chapter 20

# The Legal System

IN THE MAIN, French law is built solidly upon Roman law For a far longer time than they occupied Britain, the Romans held Gaul and left upon it the physical impress of their arches, temples, and arenas and the hardly less permanent impress of their culture and their laws Even in Britain some of Rome's most distinguished men of the law sat on the judgment seat, to the solidifying effect of its definitive principles in a Europe that was only emerging from tribal life and custom Hence Roman law could not fail to shape profoundly the development of law, both public and private, in the country that was much later to become France The influence of Roman law, for instance, had much to do with the establishment of absolute monarchy in the sixteenth and seventeenth centuries [1]

[1] These familiar comparisons are all made from the point of view of public law When we turn to private law we see the picture from another point of view "If we look at feudalism not from the point of view of public law as a system of tenure, we see that the influence of feudalism was more far reaching and more permanent in England than in France French law knew of land that was *owned*, but from the time of the Conqueror English law only knows of land that is *held* In the French law of today the principle of tenure has been eliminated In England it is still the basis of the land law The period of the absolute monarchy in France was a period of active legislation upon many subjects of private law English law in the seventeenth and eighteenth centuries can show nothing to match some of those comprehensive ordinances which, by reducing to order and system many branches of French law, have made the French nation pioneers in the work of codification The cessation of the influence of Roman law, though it may have had beneficial effects on the development of the English public law, has had by no means equally beneficial effects on English private law The common law became a hard and technical system at too early a date It could give no legal expression to the new ideas and the new activities produced by a changing civilization These were obliged to find a space outside its sphere, and in consequence English private law long suffered from the inconvenience of consisting of rival and sometimes contradictory bodies of rules Even these rivals of the common law did not completely fill the gap English family law, for instance, is meagre compared with that of France Upon such topics as guardianship, adoption, the treatment of prodigals, English law has something to learn from the manner in which foreign nations have adapted the *corpus juris civilis* to the needs of the modern state" Adapted from William Searles Holdsworth's Introduction to Brissaud's *History of French Private Law*

As the reaches of Roman law extended ever further from the south toward the north, it came into an area of Frankish tradition This was the *pays du droit coutumier*, where there was much more variety than in the south No part of the Revolutionary legislation met with so little resistance as its destruction of that confusing and often contradictory mass of local, provincial, and royal laws and decrees But the difficulties began when the lawyers endeavored to apply the principles of the rights of man to political, civil, and criminal affairs The First Consul inherited their work, and he was fortunate to have at his side in the Second Consul, Cambacérès (later created Duke of Parma), a lawyer of great acumen and experience

Note that the work was begun by Napoleon before he became Emperor, in other words, it is necessary to put it in its psychological as well as its legal and historical setting the most important part of it was drawn up at a time halfway between the sentimental rhetoric so characteristic of many of the Revolutionary utterances and decrees and the rigid despotism of the imperial authoritarianism On the whole, the Code [2] to which for convenience's sake history has agreed to attach the name of Napoleon preserves the essential conquests of the Revolutionary spirit—civil equality, religious toleration, the emancipation of land, public trial, the jury of judgment In France the Code was more of an exercise in systematic arrangement than an improvement on the democratic progress achieved by the Revolution, but when it was carried to Germany and Italy it was of course a tremendous advance There it was immediately perceived to be the earliest message, as well as the most mature embodiment, of the new spirit Even those countries which fell for only a few years under Napoleon's sway, such as Spain and Switzerland, underwent its influence, and many of the states of Latin America have adopted its salient features, as has the state of Louisiana

The constitution of 1875 makes no reference to the judicial organization of the country French judges are civil servants, courts are administrative offices Since civil servants are not popularly elected, French judges are appointed by the Minister of Justice, as prefects are appointed by the Minister of the Interior and teachers by the Minister of Education Their qualifications are at least as high

The logic of the French mind has led them to a theory of the separation of powers radically different from the American Here the philosophy has been to separate legislative, judicial, and executive functions, in France, to give the greatest degree of freedom to the institutions This has led them to set up two parallel areas of jurisdiction, two different sets of courts One of the greatest French authorities on constitutional law, Joseph Barthélemy, finds this a little hard to explain "There is not," he complains, "a single hierarchy

[2] Really, five codes civil, civil procedure, criminal procedure, penal, commercial, a sixth, the rural code, was drafted but never passed Perhaps the best nontechnical description is in *Cambridge Modern History*, Vol 9, chap 6, by H A L Fisher

of the judiciary, there is even, on some matters, a confusion of powers in that certain authorities emerge absolutely from their normal mission to fill a function essentially judicial (e g, the Senate constituted as a high court of justice) " What confuses the exercise of the judicial function is the existence of two hierarchies, the one dominated by the *Cour de cassation*, which passes upon civil law in its broadest sense, the other, the Council of State, in charge of what may be called administrative law—matters involving litigation in which the public authority and the public services are interested parties If there is any doubt as to where a case belongs, the question is referred to the arbitration of a *Tribunal des conflits*

An administrative tribunal such as the judicial section of the Council of State affords French citizens better protection against the abuses of administrative officers than is afforded to Americans by common-law courts The judges of the Council of State are themselves, in a sense, administrative officers, they are not, as are judges in the regular courts, irremovable, yet they try disputes between the individual and the state with admirable impartiality This demonstrates the fact that, as Robert Valeur puts it,[8] in the last analysis the individual is better protected in France, under a system of law imbued with the Roman tradition that the state is supreme, than in America where the legal system emphasizes individual rights This apparent paradox is all the more remarkable if one recalls that French officials are inclined to assume an autocratic attitude toward the public—although it may in turn well be this very attitude on the part of the administration that has necessitated efficient defenses for the protection of the individual

All this is based not so much on the tradition of Roman law as on the hard facts of more recent history To accomplish its formidable work, the Revolution had to multiply its acts of violence against property and against persons, the activity of its agents could not be slowed down by the inconvenient control of judges And so the Revolution launched against them some celebrated provisions they were to be kept in ignorance of many of the actions of the government, they could not hale into court administrative officers as such That is the tragic origin of the principle of separation of authority (administrative and judicial) which appears too often in manuals of administrative law, to use Barthélemy's words, as "strangely cooled lava" This principle constituted too convenient an instrument of government for Napoleon to relinquish it, over the whole of the centralized territory of France the will of the despot should be felt immediately, everywhere, without obstacle, no fear of judicial process must paralyze the obedience of those who would execute that will But, while maintaining that principle, Napoleon did with it what he did to the other principles inherited by him from the Revolution—he perfected and organized it It was improper that the same administrators who had framed the act should be called upon to judge the

[8] *Democratic Governments in Europe* (New York, 1937), p 454

complaints to which it gave rise So, perhaps unnecessarily complicating the situation, he created new forms of separation This new system, formalized and completed by a series of measures extended throughout the nineteenth century, finally distinguished three categories of functions (1) the active administration which watches over the daily functioning of public services and which is in general incarnated by the individual authorities such as the prefect or the mayor, (2) the deliberative administration, which makes decisions that it does not itself enforce, confiding their execution to the active administration The deliberative administration is exercised by such assemblies as the municipal council Of the first type, the French saying is that "to act is the function of one, while to judge is the function of several" And (3), the consultative administration, whose role, as in the Council of State, is limited to giving opinion

It is time now to sketch the pyramid of the legal organization

## *THE JUGE DE PAIX*

At the base of the pyramid is the *juge de paix*, of whom there is generally one in each canton He does not form part of what may be called the career service, in that fact he resembles his opposite number in the United States He acts only in cases dealing with a negligible amount of money (*bagatelles*), whereas the bulk of litigations in first instance is handled by the *tribunaux*, which as far as they deal with civil (in contrast with criminal) matters are called *tribunaux civils* For civil litigations arising out of employer-employee relationship, special courts, called *conseils de prud'hommes*, are created, composed of equal numbers of delegates of workers and employers elected by their own group (in the case of the workers, generally without distinction of the labor group to which they may belong) If they divide equally, the *juge de paix* settles the tie For civil actions arising out of commercial transactions special tribunals, *tribunaux de commerce*, are provided The dispensation of criminal justice is entrusted to the *tribunal de simple police* for infractions (*contraventions*) This tribunal is set up and presided over by the *juge de paix* Major offenses (*délits*) and many felonies (*crimes*) are adjudicated by the tribunal which as a criminal court is called *tribunal en matière correctionnelle* As for those felonies which are punishable with *peines afflictives et infamantes*, their trial is committed to a *cour d'assises* which consists of a judge of the court of appeals, two judges taken from the staff of the *tribunaux* of the first instance, and a jury Such *peines afflictives et infamantes* consist of death, penal servitude, deportation, imprisonment for more than five years, and internment in a fortress, the two last mentioned being applicable only for political crimes

## *THE COURTS OF APPEAL*

The prosecution lies in matters of minor crimes (*délits*) in the hands of the *procureur de la république*, one of whom is attached to every *tribunal*, with as many assistants as necessary A *Procureur-Général* functions at every court of appeals His assistants are called *avocats-généraux* All prosecuting authorities are subordinate to the Minister of Justice and collectively are called the *parquet* To understand the French type of criminal proceedings (a type which has been adopted in western and central Europe) one has to emphasize two important concepts (1) Criminal proceedings can be initiated by *both* the public prosecutors and the person aggrieved Naturally the *procureur de la république* has the first say, after a complaint (*plainte*) has been lodged with him or with the court by the aggrieved party If the *parquet* refuses to prosecute, the injured party may still proceed, under certain safeguards too complicated to be described here In the absence of a *plainte* filed by an aggrieved party, the *parquet* may proceed on its own (2) The other characteristic feature is *l'instruction* before a *juge d'instruction* in cases of *délits* and *crimes* His preliminary investigation, which probably includes the examination of witnesses, their confrontation with the accused, and the testimony of experts, ends by referring the case to the *parquet*, unless he comes to the conclusion that there is no cause for a further prosecution of the accused Thus he has considerable authority in either closing or continuing a case If he decides to continue the case, he makes an *ordonnance de renvoi* (similar to our indictment) to the *tribunal* If in his opinion the act represents a felony subject to jury trial, he transmits the file to the *Procureur-Général* of the court of appeal, and this official has to submit the record to that *chambre* of the court of appeal which is called *chambre de mises en accusation* Against any order of the *juge d'instruction* the *parquet* or the injured party (*parti civil*) may appeal to that *chambre* Few such appeals succeed, for a trial at this stage is rather clearly indicated This trial is held before the *Cour d'Assises* In case of a *délit* the *tribunal* upon the *renvoi* proceeds to hear the case in the usual manner, before three judges

## *APPEALS*

Appeal in civil cases lies from the judgments of a *tribunal civil* to a court of appeal and from the judgment of a *juge de paix* to the *tribunal civil* In criminal cases appeal lies from a judgment of the *tribunal en matière correctionnelle* to the court of appeal, which while acting as a court of criminal appeal is called the *chambre des appels correctionnelles* Either side—defendant as well as prosecutor—has a right to appeal (In the United States only the defendant can appeal ) From a verdict rendered by the *Cour d'Assises* there is no right of further appeal This is because in France and in other countries following the French pattern an appeal requires a trial *de novo* before the

appellate court The idea underlying a trial by jury precludes by itself a trial *de novo* before a tribunal acting as an appellate court, without jury For this reason the only mode of review is the so-called petition for reversal It can be based only on questions of law, whereas the ordinary appeal in other than jury cases includes the question of fact The court which decides on the petition for reversal (*pourvoi en cassation*) is the *Cour de Cassation*

## *THE COUR DE CASSATION*

It will already have been gathered that in France there is no equivalent of the United States Supreme Court, since the French judiciary has never been regarded as a separate branch of the government There is no single highest court of appeal in the American sense, although the *Cour de cassation* is sometimes regarded as such, partly because it is the summit of the hierarchy, partly because without its decisions the judgments of the lower courts could remain unchallenged Its personnel includes a first president, three sectional presidents, and forty-five judges The three sections are the civil court, the criminal court, and the *chambre de requêtes* (court of petitions) Criminal appeals went straight to the criminal section, civil appeals to the *chambre de requêtes* Only if that court took out a warrant for admission did the case come before the civil court, where the appeal entered into the second phase If the demand for rehearing was refused, such refusal was final, if it was granted, the case was then heard by the civil section, by which *cessation* (annulment) was either granted or refused If it granted *cessation*, it remitted the case to the hearing of the court of the same order as that from which it came In July 1947 the *chambre de requêtes* was eliminated, hence the two phases of appeal were reduced to one This was accompanied by a decree which created three civil divisions to replace the previous single civil division While it helped to avoid the congestion of cases before the *Cour de cassation*, it raised the question of how unity of legal interpretation was to be secured To assure this, it was decreed that each of the three divisions should hear different types of cases—civil matters, financial, and social If there still proves to be an overlapping of jurisdiction, a plenary assembly of the court intervenes to settle the matter

This matter of interpretation is very important, since the mission of the *Cour de cassation* is primarily, perhaps, one of uniformity—to see that the law is understood and applied in the same manner whether in Normandy, Corsica, or Algeria It does not examine questions of fact, it accepts decisions made by jurisdictions inferior to it, it confines itself to deciding whether decisions handed up to it conform to the law, if it finds they do not, all it can do is to send the case to another court of the same jurisdiction as that which rendered the original decision

## *TRIAL BY JURY*

To the Anglo-Saxon mind trial by jury appears a vitally necessary part of the democratic process, although the tendency in the British empire of late seems to be away from the use of a jury in civil actions, one of its older values, no longer applicable, lay in its quasi-political character as preventing the growth of hostility to the instruments of justice Since the right to jury trial in France is generally reserved for felonies and political crimes, civil actions pursue their way in France with considerable more dispatch than in England and America Perhaps juries even for criminal cases are on the way out An emotional, oratorical lawyer can appeal to twelve people more effectively than to a panel of judges, and the extravagances and the lack of dignity apparent in certain trials might be obviated by the substitution of judges for jurymen Barker seems to hint that even the limited jury system now in vogue may some day be eliminated, giving as reasons the following Juries drawn from the *petite bourgeoisie* (although nowadays they are seldom so drawn) are criticized for being generally as severe in dealing with offenses against property as they are indulgent in dealing with personal offenses, they are said to be temperamentally disqualified for dealing with cases of libel ("which naturally," he says, "abound in a country with a genius for invective"), they are said to be unable to confine themselves to their legal function of finding a verdict on the facts, and to be prone to attempt interference in the determination of the sentence Certainly history will show that most juries have been overindulgent toward *crimes passionels* and political offenses A notable combination of the two was the murder on the eve of the First World War of Gaston Calmette, editor of the *Figaro*, by the wife of Caillaux, Minister of Finance, and former Prime Minister Like most Frenchwomen accused of murder, she was almost triumphantly acquitted, since she shot in defense of her honor and to stop newspaper attacks on her husband, the jury evidently thought that the two motives were ample justification

What is the French alternative for the jury? A plural bench, called, more academically, the "principle of collegiality" For example, each unit of the *Cour de cassation* consists of no less than sixteen judges sitting together The plurality of judges rests, as has been already remarked, upon a proverbial belief among Frenchmen that to act is the function of one, while to judge requires the deliberation of several heads Thus in every court, no matter how unimportant, the presiding judge is flanked by at least two colleagues, generally younger and less experienced, whose judicial education is in this way greatly furthered Since all decisions are by majority vote, the presiding judge may find himself at times in the minority

In France there are probably stronger safeguards against the conviction of an innocent person than in the United States It is true that habeas corpus does not exist as such, but the accused has the right to appeal against the denial of

his release from an arrest, a remedy which has the same function as habeas corpus At his trial the accused can never be a witness, therefore no inferences detrimental to his case can be drawn from his failure to take the witness stand A trial in France, as in other so-called civil law countries, is not a duel between two attorneys, because in civil as in criminal actions the presiding judge is assigned the task of interrogating the witnesses, and the representatives of both parties may then ask questions in their turn In the United States the judge is the umpire In France he is more familiar with the pleadings and the evidence than the attorneys He really conducts the proceedings The accused is not really subjected to a cross-examination by the judge No one forces the accused to answer, and if he lies he cannot be subject to prosecution for perjury because he is not a witness In any criminal case the accused's counsel delivers his summary (*plaidoyer*) after the prosecuting attorney's summation (*requisitoire*), so that in a French case the jury retires under the impression of the defense counsel's usually brilliant and rhetorical appeal, whereas in the United States the jury retires with the prosecutor's ringing phrases in its ears. Could that be one reason for the traditional greater leniency of French juries?

If in France an innocent person has been convicted, he is not dependent on a pardon by the executive, the uncertain system of redress which prevails in the United States In France, within one year after new facts are found which might prove the innocence of the accused, he has a redress, as of right, to the *Cour de Cassation* which leads to a retrial

Capital punishment is seldom invoked in France If the Fourth Republic has not brought about, as yet, many reforms in the traditional legal system of France, it has within a remarkably short time accomplished many penal and correctional reforms No longer, for instance, are convicts sent to Devil's Island, scene of many a hair-raising movie

What about the judiciary as a whole? It far outnumbers the English, and probably, in proportion, the American British judges handling civil cases number hardly more than a hundred whereas in France there are nearly four thousand If the Frenchman is more generally litigious than the Englishman it may be, apart from his temperament, that it is because (as Barker believes) justice in France is more accessible, cheaper, and generally more popular than in England "Justice in France," he says, "is really brought to the doors of the people's homes The general standard of the judicature is above reproach or cavil, and the judicial profession attains the logic, the clarity, and the high level of professional skill and honor which the genius of the French spirit requires from all the professions of the mind" [4] There are—or were—three valid criticisms of the French judicial system (1) the judges' inadequate pay, (2) the possibility that, without charging them with venality, they are still in some cases overshadowed by the national sovereignty of the chambers and their ministers, and (3) the red tape of the procedure, which too often

[4] Ernest Barker, *Essays on Government* (Oxford, 1945), p 114

presents the judges with documents instead of the flesh and blood parties to the case The second of these criticisms should be considered in the light of the changes in the magistrature established by the constitution of 1946 Under the Third Republic the Minister of Justice appointed practically all magistrates, from a panel of qualified lawyers who had pursued their professional study with the sole view of seeking appointment as a judge of some kind Despite the undoubted qualifications of these candidates, the minister was not seldom subject to political pressure The power of appointment is no longer his The constitution of the Fourth Republic partly makes up for that which seems to Americans a singular deficiency in the constitution of 1875—complete silence on the judiciary Two articles, 83 and 84, set up the Superior Council of the Magistracy and define its duties Its vice-president and the official who will normally preside over it is the Minister of Justice, which is natural The membership consists of fourteen, chosen as follows six elected by the National Assembly (who need not be judges, since nothing is said about their qualifications), four magistrates elected by the National Asembly, two appointed by the President of the republic, the President himself (who is the nominal chairman), and the minister The chief function of this Superior Council is to nominate to the President all the magistrates of the republic except those attached to the public prosecutors' office No longer does the Minister of Justice have the power to prefer charges against judges, under Article 84, it is the Superior Council of the Magistracy which "assures the discipline of its magistrates, their independence and the administration of judiciary tribunals" The independence and dignity [5] of the French judiciary are in safer hands than they ever have been

Since the Napoleonic Code still stands with surprisingly few changes (there was only a slight revision of the civil section in 1904), it is evident that in France the legal side of freedom broadens only "slowly down from precedent to precedent" Yet it can hardly be maintained, as Barker does, that French judges are, less than the English, under the influence of a judicial tradition proceeding from the decisions of the courts, and more under that of fixed legal codes and parliamentary statutes French courts are more independent of precedent than are the Anglo-Saxon, to them *stare decisis* (stand on the decision—i e , the binding force of precedent) is not so sacred Whole new legal branches in France have been developed by jurisprudence only Since from the fourteenth century to today nobody could become an attorney or judge without having studied in a university law school, legal science has

[5] That dignity was at a low ebb during the two most famous trials in recent French annals, those of Pétain and Laval See Sven Auren, *The Tricolour Flies Again* (London, 1946), for vivid accounts of the trials and criticisms of judges and juries It should be pointed out, however, that it was impossible to impanel a really unprejudiced jury so soon after the liberation, especially in the case of Laval, who by fleeing the country had practically admitted the guilt of which all Frenchmen except collaborationists were convinced

exercised a tremendous influence on the development of civil law The decisions are based much more upon learned monographs of legal scholars than on old cases [6]

[6] This chapter has benefited by the criticisms of Sir Angus Fletcher, Litt D, K C M G, and of Professor Arthur Lenhoff, J D, of the University of Buffalo Law School W R Sharp's *Government of the French Republic* (New York, 1938), has an excellent chapter on the "Administration of Justice," which should be read in connection with his discussion of the recruitment and assignment of judges in his *The French Civil Service* (New York, 1931) R C K Ensor's *Courts and Judges in France, Germany and England* (London, 1933), will also be found useful for comparative purposes For a fuller description of the most recent changes in the legal system see Leon Alexander, "French Law after the Liberation," *American Bar Association Journal* (June, 1949), 35 467-471 They will have a poor opinion of French justice who may read Michel Debre, *La Mort de l'Etat Republicain* (Paris, 1947), pp 119-130

## Chapter 21

# *From Empire to Union*

THE TWO WORLD WARS gave the people of the French colonies a very different idea of their importance from any they had ever before thought they enjoyed Despite the tremendous cultural differences between them, the French had never looked down upon their darker-skinned peoples as did the Germans and the Spanish The French tolerance for all things different from theirs, their intellectual curiosity and inquisitiveness made it easier for them to assimilate as they infiltrated, or even as they conquered Richly has it paid dividends Not the least of these has been in the form to which the great soldier colonizers and explorers of the Third Republic, Faidherbe, Brazza, Marchand, did not give much thought the moral form Lyautey did, in Indo-China, Madagascar, and Morocco, and his almost lifelong devotion, particularly in Morocco, to the welfare of the natives gives a surer place in history to him than to the men of pure action The climax of Lyautey's lifework—the climax that can be described in concrete terms—came during the First World War, when from Morocco and Senegal and elsewhere in French West Africa came to France hundreds of thousands of native soldiers (over 600,000 from the whole of the empire) trained and drilled by a few hundred French [1] The loyalty of the French possessions and dependencies in the Mediterranean coast remained after the first war constant, with only one exception, the Syrian rebellion of 1926 This, however, was due to the rigidity and tactlessness of a general, Sarrail, who had been mistakenly believed to be in the Lyautey tradition Sarrail went back on his predecessor's promise to grant a constitution and to prepare the Syrians for self-government, and the revolt opened the eyes of the French to the harm which can accrue when the growing nationalism of a sensitive, cultivated people is laughed off

Those who try to benefit a so-called inferior people must be very careful about their methods Of this truism an almost tragic example may be found in the American occupation of Haiti, which conferred immense material benefits but left no feeling of gratitude simply because the Americans made

[1] See Andre Maurois, *Marshal Lyautey* (New York, 1931), and Georges Hardy, *Portrait de Lyautey* (Paris, 1949)

little effort to understand the mentality and culture of a colored race Jean Aynoué was a young Negro who lived in Brazzaville, the capital of French Equatorial Africa, when he said that "colonization seeks to establish a living balance among all the groups that constitute humanity" he was conscious of the fact that the aim of France in colonizing his country was to achieve some day a common level of civilization between the colonized and the colonizer—the growing equilibrium which in the political sphere was illustrated by the fact that members of the colored races have at all times sat in both the Chamber and the Senate, and at least three have been cabinet ministers

The colonial empire which grew to be the world's second largest was mostly the creation of a democracy and not a monarchy If Britain was said to have acquired her empire in a fit of absent-mindedness, the French dominions likewise came as the result of no far-sighted and constructive planning It was the defeat of 1870 that turned the minds of the adventurous and the ambitious away from Europe, which evidently was to be dominated for a while by Germany, to the idea of showing the world that the old French virtues of courage and resourcefulness and exploration were not dead Bismarck strangely enough encouraged French colonial expansion—before he himself was converted to a German colonial empire—just as he favored a republic instead of a monarchical restoration, both he thought would weaken France, would take her mind off thoughts of revenge If Germany interposed no objection, would England? Or would Italy, which obviously had more interest in the south shore of the Mediterranean? Clever, realistic diplomacy finally solved the first problem, though not until the two powers came in 1898 to the threshold of war over the possession of a few thousand square miles of what is now the Egyptian Sudan Only six years after this near-tragedy the two foreign Ministers, Delcassé and Lansdowne, had become convinced that a common enemy was looming over the horizon who would pick off each separately if they did not combine, so all the outstanding colonial questions were settled with an ease which would have been surprising to the onlooker if he had not guessed that France was anxious to secure England as a friend, even as an ally, in order to build up a combination of powers equal to the Triple Alliance France gave England a free hand in Egypt and secured the same in Morocco, buying Spain off with a coastal strip and Italy with a promise of noninterference whenever she wanted to take Tripoli [2] Germany, thought France, had no interest in Morocco and so need not be consulted, but Germany soon cooked up some interest in Morocco, magnified it, and to buy her off France wisely decided, in 1911, to cede her about a hundred thousand square miles in the French Congo

So to the very eve of the First World War the French colonial empire was

[2] Cf the pragmatic sanction of 1740, when the Emperor Charles VI thought to secure a peaceful accession for his daughter Maria Theresa by bribing every power—except Prussia

in process of growth Parts of it had been so thoroughly assimilated that the administrative distinction between colony and mother country was beginning to disappear in those areas settled the earliest and geographically the nearest to metropolitan France Within a few years of 1871 Algeria (which had been conquered under Louis Philippe) was divided into three *départements*, represented in both the Chamber and the Senate, a university was founded subject to the same administrative control, advantages, and disadvantages of all the other French universities, a mosque was erected in the heart of Paris so that Frenchmen whether they wore a burnoose or a silk hat could worship God in their own way By 1885 ten seats had been allocated to the colonies in the Chamber

Just before the Second World War Great Britain (including the dominions and India) controlled 23 9 percent of the earth's land surface, France 9 3 percent Portugal, Belgium, the Netherlands, and Italy followed in that order

The exaggerated and unrealistic nationalism so apparent in the Treaty of Versailles was not confined to the new states of Europe Demands for independence during the latter years of the war on the part of many races, whether small and progressive or large and backward, were equally insistent To encourage them would help to disrupt those enemy states which controlled subject peoples and would convince everyone, whether enemy or friend, that the Allies were in earnest about self-determination The Germans had thought that the Arabs in Morocco and Egypt, the Hindus and the Moslems, could be brought, with a lavish use of gold and promises, to realize that here was their chance to use the extremity of the Allies as the opportunity of backward races Nothing was further from reality Not only from Senegal and Morocco but from India came native troops and money and equipment, and if many of these soldiers found that the European climate and the conditions of modern warfare were too much for them, at least they relieved for active fighting thousands of French and English soldiers [3] The exploits of Lawrence in Arabia are proverbial, but he promised his followers things which he could not fulfill, and the inevitable discrediting of Lawrence at Paris was one of the factors touching off the wave of anger which led to a series of nationalistic violence in Egypt and to some extent in Algeria "Islam," as Lyautey once put it, "is a sounding-box, and the slightest vibration at any one point is immediately transmitted to the whole"

It cannot be doubted that Great Britain pointed the way toward a reconsideration of the world-wide colonial problem by adopting the famous Statute of Westminster in 1926 After that, the breakup of her old empire was inevitable The question common to both the English and the French empires

[3] Clemenceau had great respect for the fighting qualities of the Senegalese "I used to see them going by in lorries, serene and smiling, they fought like wildcats There is no doctor of the University of Berlin or Munich who is as handsome or magnificent as any of these Senegalese" Jean Martet, *Clemenceau* (London, 1930), p 279

is this Were the successive concessions given to the native races a natural and inescapable concomitant of the growing democracy of the time, or were they grudgingly given, to prevent a disastrous revolt which would have plunged the empires into war and possible disruption?[4] A mixture of both, but in what proportion it is impossible to measure Prestige, and the appearance if not the actuality of power, mean more to a defeated nation, one with a glorious past, than to one victorious, and De Gaulle and his followers, anxious (perhaps too anxious) to show the world that France was still a great power, were a bit slow in implementing the colonial provisions of the 1946 constitution The Ministry of France Overseas took the place of the Ministry of Colonies as early as January, 1946, ten months before the constitution went into effect Tunis and Morocco (being protectorates) are under the Ministry of Foreign Affairs, Algeria (three *départements*), Guadaloupe, Martinique, Guiana, and Réunion (one *département* each) are under the Ministry of the Interior, but the Overseas Ministry has enough to do when it administers the rest of the Union, its chief problem being Indo-China, which is the real test of the sincerity of the government's intentions[5]

The French counterpart of the London Imperial Conference of 1926 came in 1934–1935 It proposed a comprehensive "fifteen-year plan" involving the expenditure on the colonies of over 11,000,000,000 francs But the problem was as largely psychological as economic, it centered around the difficulty of making the average Frenchman colony-conscious Colonies cost money and lives, one the French would not, and the other they could not, waste "As for colonial policy," said Clemenceau, "I blamed Ferry for throwing away our men and money on remote expeditions when we needed them a good deal more urgently at home I would still [1928] oppose that colonial policy if we still had the German menace always before us, a declining birthrate, an army and navy barely sufficient to defend the metropolis, and if, finally, France persisted in wanting colonies without colonists The French don't want to leave Paris, Bordeaux, Marseilles"[6]

[4] Discussing Mr Churchill's famous remark that he did not intend to preside at the liquidation of the British Empire, Patrick Gordon-Walker, M P, parliamentary secretary to the Deputy Prime Minister, said in 1947 at the University of Buffalo "If Mr Churchill were in power, he would throw away the empire as George III threw away the thirteen colonies The aim of the Labour government is to save it This will be accomplished by giving the colonies self-governing status"

[5] As early as 1889, with the object of placing colonial careers on the same plane as the other careers for which great national training schools were provided (e g, Polytechnique School, Conservatory of Arts and Trades, School of Fine Arts, School of Oriental Languages, School of Archivists, and many others, all dependent on some ministry), the Colonial School was founded in Paris, with the aim of forming administrators and magistrates with highly specialized colonial training See J de la Roche and J Gottmann, *La Federation Française* (Montreal, 1945), chaps 1 and 2 of Part 3, "L'Organization Administrative des Territoires"

[6] Martet, *op cit*, p 277

But it was far too late to draw back, it simply illustrates Clemenceau's consistency he had helped to discredit Ferry, the chief architect of the empire, and remained his enemy to the day of his death To the Tiger nothing mattered as long as the Germans could show sharper claws than his The handicaps to expansion which he mentioned remained, but they had to be corrected, and, superseded by stronger inducements Modern propaganda was tried with great effect, visual methods, advertising, visits to colonies, a great colonial exhibition was held in Paris In the thirties, "assimilationists" gave way to "associationists," who doubted the possibility of going so far as to make, overnight, all colonial peoples into full-fledged Frenchmen, their policy was to give full citizenship only to a certain elite, to entrust this aristocracy with a considerable share of the administration, based on the sort of education and training which Eboué received in Paris, and then, after two or three generations, to go further

Somehow the colonies after the fall of France seemed less bewildered than did many in France itself Perhaps the colonists did not at first realize all it meant The professional colonial administrators proved as often akin to Vichy as to the republic In the same way as many army, and more naval, officers, accustomed to discipline without questioning its moral basis, remained loyal to their former commander in chief, so a number of colonial governors failed to hear De Gaulle's clarion call His dilemma was tragic he had to avert civil war Nogues, governor of Morocco, hesitated until it was too late, his wife, a daughter of Delcassé, the chief architect of the Franco-British entente of 1904, could not break his irresolution De Gaulle's first thought was for the empire, he sent commissioners to the four corners of the world to remind his overseas compatriots that the English fleet, perhaps joined by a part of the French, would prevent the Germans from invading any of the colonies Thanks to the military genius of Leclerc,[7] Catroux, and many others, and the civilian efforts of Eboué, De Gaulle's plan succeeded in Equatorial Africa, failed in Senegal (whence the stupid Anglo-Free French attack on Dakar, the capital, a few weeks later), failed in Indo-China, which had to be abandoned to Japan, not to Vichy, failed, only temporarily and not ingloriously, in Syria [8] and Madagascar, in both of which the population

[7] Real name (Marquis) Philippe de Hautecloque, killed in an aviation accident in 1947 On June 18, 1949, General de Gaulle presided over the ceremony of changing the name of the Avenue d'Orleans in Paris to that of the Avenue du General Leclerc That which ought to have been a national commemoration of a great Frenchman was turned into a partisan demonstration, and 20,000 police stood by to prevent a clash between Gaullists and Communists

[8] The fighting was perhaps severest in Syria General Dentz was ordered by Pétain to resist, but it was important for the Allies to deprive Germany of the use of Syria as an air base, and nearly 1500 British and Free French troops were killed or wounded When the fighting ceased, in July, 1941, General Catroux proclaimed the independence of Syria and Lebanon in accordance with De Gaulle's promise Both states were original members

was anti-Vichy but had no means of revolt, brilliantly succeeded in the Pacific colonies, India, and the St Lawrence islands, and failed only temporarily in Martinique

What of Algeria and Tunisia? In the latter the situation was complicated by the existence of a large Italian population—as numerous as the French, and in both places by a growing nationalist feeling among the Arabs, who thought that the more France, and Europe in general, was involved in war, the more advantage they could derive from the turmoil How long would ten million consent to be governed by one million? And many of the ten million—unlike the Moslem millions in Asia—had a standard of living and culture not much inferior to that of some of the French colonists In any case, De Gaulle decided, at the outset at least, not to run the risk of a civil war in North Africa but to let events take their course, which, notably, they did in November, 1942

A Free French movement whose capital was in London was psychologically less effective than a center somewhere in overseas France While keeping his London hadquarters so as to maintain contact with the British, De Gaulle transferred many of his activities (including a very effective radio propaganda and news service) to Brazzaville, at the mouth of the Congo Pétain sentenced De Gaulle to death as a traitor, in 1945 the tables were turned and De Gaulle commuted to life imprisonment the death sentence passed upon the old marshal by a high court of justice[9] At Brazzaville he was fortified by Churchill's declaration that the British victory would restore to France her territorial integrity as well as her greatness and prestige, and from Brazzaville he organized flying columns, making up in energy and courage what they lacked in equipment, under Leclerc, Larminat, and others, which crossed the Sahara and joined the British against the Germans and Italians And at Brazzaville he organized in October, 1940, the Imperial Defense Council, consisting of governors of the colonies which had joined the Free French, military leaders, and civilian advisers It led to an imperial conference in January, 1944, which laid plans for improving the social and economic lot of the native peoples and coined the expression French Union The educational parts of these reforms provided for elementary schools in all villages of at least fifty boys and girls of school age, as well as secondary and vocational schools and colleges for training teachers "Twenty-year plans" were adopted for both West and Equatorial Africa, which for example, will furnish for the former 50,000 elementary schools for 2,500,000 pupils How will such a vast under-

of the United Nations, a Lebanese, Dr Charles Malik, was 1949 chairman of the Social and Humanitarian Commission

[9] See *Procès du Maréchal Pétain* (Paris, 1945) This book, of 386 three-column pages, is not a legal document of only technical or military interest but an example of French justice, logic, and democracy at their best

taking be financed? It is a vicious circle to support education, local revenue must be developed, but without the education necessary to teach colonial peoples how to exploit their own resources, local revenue cannot be largely increased How do the French reconcile the compulsory use of the French language with their oft expressed sympathy for regional customs and cultures? They maintain [10] that "since hardly any African language possesses a written literature, education given through the medium of an African language cannot open the door to a true culture, the use of French will have a unifying influence, and will tend to draw the heterogeneous races of Africa closer together as members of the French community"

The British have brought about their colonial reforms by decree and *ad hoc* acts of Parliament, but have made no provision for a permanent administrative body This the French have included in their new constitution (Arts 60-82) In addition to the National Assembly and the Council of the Republic, there is a third assembly unknown to the Third Republic This is called the French Union and is concerned with the affairs of France and her empire as a whole The Union has two houses the High Council and the Assembly The President of the republic is also the president of the Union, whose function is not legislative but advisory, this is true of both houses In their composition the two would seem to overlap The High Council is composed of a delegation of the French government (not of the National Assembly) and a representation of the associated states (e g , Morocco and Tunis), while the Assembly "is composed half of members representing metropolitan France and half of members representing the overseas departments and territories and the associated states They are elected in metropolitan France to the number of two-thirds by members of the National Assembly representing the home country and to the number of one-third by members of the Council of the Republic representing the home country" Thus the "home" members do not directly represent the government, may indeed express views contrary to its policy Evidently the High Council considers matters of interest to the associated states only, while the scope of the Assembly's deliberations includes the whole of the former empire Each body can only vote resolutions and give opinions on measures sent to it by the National Assembly

For France, and for every other country as well, this is an entirely new constitutional device, which would seem to have something of the purpose if not the mechanism of the imperial conferences of the British Commonwealth In fact, this long chapter of the 1946 constitution, with its twenty-three articles concerned with this novel institution, is an excellent illustration of that French precision in constitution making which makes its authors look

[10] "Educational Reform in French Tropical Africa," in *Bulletin Mensuel de Documentation*, Ministry of France Overseas, October, 1945

upon their work as a philosophical achievement, with everything deduced from a principle, and as a work of art of which the order and symmetry must be perfect

Some of these constitutional provisions, of course, remain to be implemented That they are both wise and realistic is the opinion of the most progressive among the French colonials One of the most interesting of their leaders, both cultural and political, is Léopold Senghor, a Negro Socialist deputy from Senegal After graduating from the lycée of Senegal he continued his education in Paris and took a brilliant degree of *agrégé-ès-lettres*, the first African to achieve it and hence to receive a chair in a lycée He was a member of the committee which wrote the constitution, so naturally he likes it He likes it chiefly, however, because the plan for a French Union "offers a system which leaves complete liberty and offers the most varied means of development for all territories, while ensuring the harmonious working of the whole Colonial peoples will have the privilege and the right to determine if they wish to be French citizens or only member citizens of the French Union, moreover, the regional assemblies in every territory will be enabled to administer and direct their policy either toward assimilation or toward association" [11] This point of view obviously does not consider independence to be the objective for all colonial peoples The Brazzaville conference skated skillfully over the idea of future independence, simply saying that "colonies should gradually advance to a status of political personality"—whatever that may mean

If it were not for the tremendous financial difficulties of implementing all these improvements [12] France's colonial troubles, for the moment at least, would seem to be over—except in two very important areas, and in these, problems of nationalism may check the fullest realization of the democratic dream of French Union, a dream which, say these nationalists, maintains pretty much the old relationship under a new and fancy name

## *ALGERIA*

Before the war Algeria sent to Paris ten deputies and three senators, today it has thirty deputies (fifteen European, fifteen Moslem) and fourteen mem-

[11] For a brief study of Senghor's literary work, chiefly poetry, see E A Jones, "Diallo and Senghor as Interpreters of the New French Africa," in *French Review*, May, 1948, 21 444-449

[12] France has long had a so-called favorable balance of trade with her colonies During the first six-month period of 1948 the total of exports exceeded imports by over 4,000,000 francs It should be noted that the French overseas territories benefit under the European Recovery Program Out of the first $375,000,000 granted to France (April-July, 1948) the allocations envisaged for the countries of the French Union, not counting Indo-China, totaled nearly $14,000,000 For details as to the amounts and purposes of money outside the E R P grants to be spent on African territories, see *News from France*, French Embassy Information Division, November 18, 1948

bers of the Council of the Republic As for self-government, the new Algerian Assembly is only a beginning, the nationalists say, criticizing its lack of power, it consists of sixty Arabs and sixty Europeans It has only consultative authority, and that mostly limited to the budget The Algerians' first demand is for a grant of greater power to this Assembly and for a revision of its membership, which obviously is out of all proportion to the population

The nationalist movement is complicated by the extraordinary racial mixture Under the name of Europeans are 850,000 "Christians," of whom 700,000 are French, the greater number naturalized French citizens, mostly of Latin or Maltese origin The 150,000 foreigners are Spaniards or Italians, not yet assimilated Among the non-Christian Europeans are 140,000 Israelites of the Berber race, or descended from Andalusian Jews expelled from Spain in the fifteenth century The Moslems, too, are of many types—Berbers, Arabs, and others The growing educational facilities offered the Moslems proved to be a political boomerang For social and religious reasons they refused to place themselves under French civil law, and there gradually developed a movement for autonomous religious renaissance under Eastern influence and led by Moslem doctors of law

The native intelligentsia, although educated in the French schools, regard the colonists as hostile to the full development of the country They have, however, followed the French pattern of giving full scope to the principle that each political idea deserves a separate political party There are no less than five Moslem parties (1) The Moderate party is composed of religious leaders and high civil officials together with a westernized elite who hope to play an increasing part in French public affairs Many of the members of this party have long advocated a policy of assimilation and they supported the request submitted by Dr Bendjelloul in May, 1946, to have French law in its entirety made applicable throughout Moslem Algeria (2) The Independent Group, or Manifesto party, under the leadership of Ferhat Abbas, is gradually breaking away from the Moderate party Its members are men of completely French culture who wish to see an autonomous Algerian republic set up within the framework of the French Union This self-governing state would have no connection with the Arab League and French interests would be respected (3) The Reform party aims to restore a purely Islamic state under strict Koranic law, as in Saudi Arabia, and to develop Arab culture in opposition to French (4) The Algerian People's party strives to organize the masses and stir up a violent campaign for complete autonomy (5) The Communist party numbers only a few Moslems

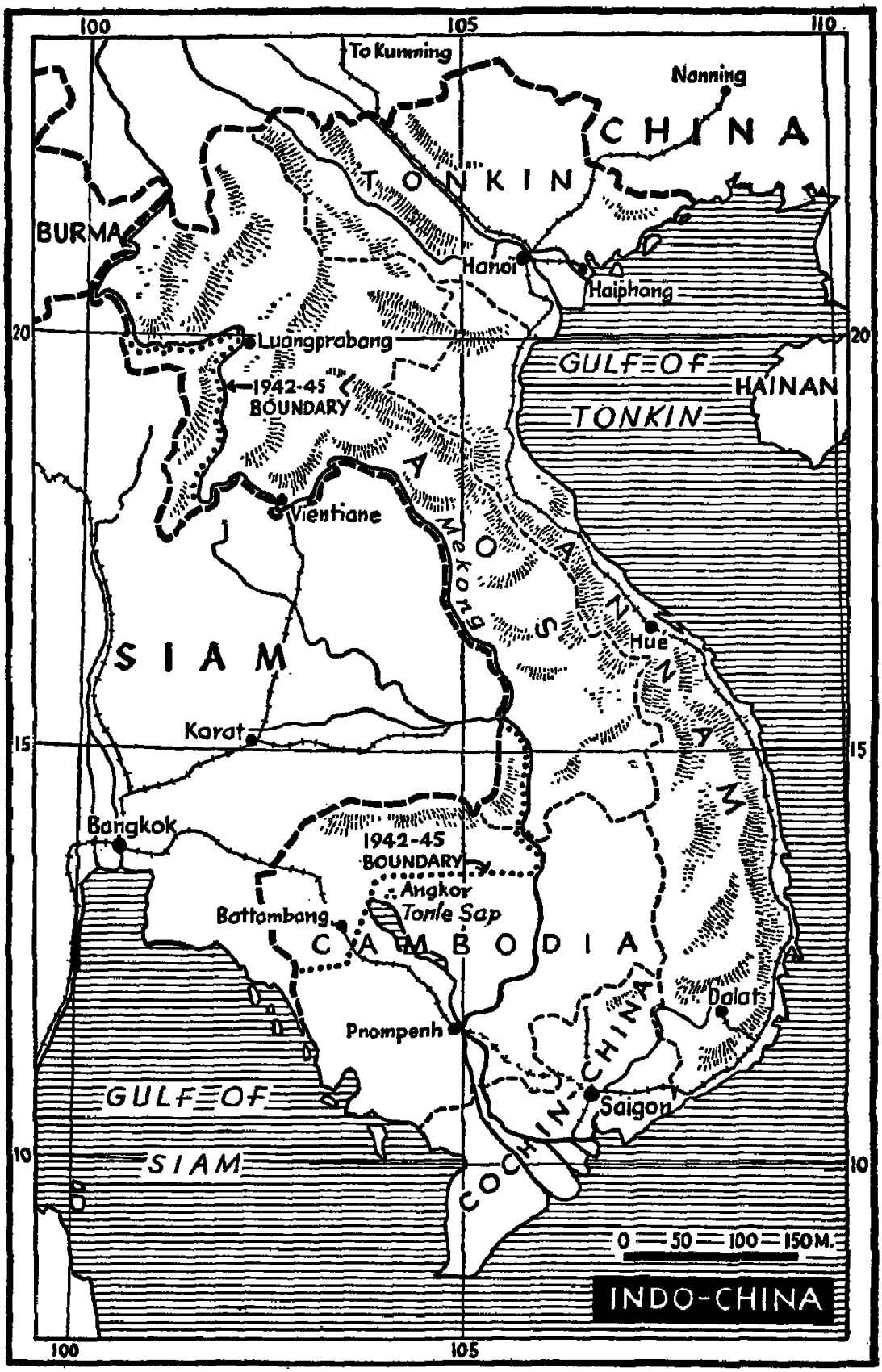
The Algerian members of the National Assembly in Paris take their seats with the parties most nearly resembling the general aims described above

Unrest just across the Mediterranean is such a potential danger to the home country that she leaves no stone unturned to give Algeria what she wants What she needs economically is of course much easier to determine than

what she wants politically A good crop year can have incalculable political results, for cereals are the main source of food for both man and livestock in Algeria In 1947 her production of cereals was less than in 1946, on account of the drought Many of the natives blamed France The result was an irrigation project of some magnitude, and in May, 1948, a delegation of agricultural experts came from France to study the condition of Algerian agriculture and the question of its modernization under the Monnet Plan Their memorandum emphasized the economic interdependence of continental and overseas France So do all the visitors, official or unofficial, who maintain contact between the Mediterranean coasts of France In June, 1949, the President of the republic toured Algeria and, as a member of the French National Liberation Committee which, formed in Algiers in 1943, "united all the forces of French resistance" in the struggle against the Axis powers, paid tribute to the importance of Algeria He praised the "free and fruitful cooperation" between the new Algerian Assembly, where "qualified representatives of all the Algerians gather to assist the government," and France He defined the union between France and Algeria as one "based on respect for individual freedoms, opinions, traditions, and creeds"

## *INDO-CHINA*

Although the French had been expelled from most of India in the middle of the eighteenth century, they had never ceased to take a marked cultural and religious interest in southwestern Asia Early in the nineteenth century a violent persecution of the missionaries and their converts in the kingdoms of Annam and Tonkin called for the same timely kind of retaliation that gave Germany her excuse for taking Kiao-Chow after Chinese outrages on missionaries If Myron T Herrick, who remained as American ambassador in Paris, 1914, after all his colleagues had accompanied the French government to Bordeaux, could remark that sometimes a dead ambassador benefits his country more than a live one, so it might be said that a few murdered missionaries may be used to strange effect As a Catholic and expansionist power, the Second Empire was naturally attracted to Indo-China, and the conquests which it began were completed, not without great cost, by the Third Republic Brogan pays tribute to some of France's greatest colonial administrators, tested for tact and patience in that far-off alien culture as none have ever been before or perhaps since Of these Albert Sarraut was the most notable Says Brogan: "He greatly improved the tone of the civil service, getting rid of the white official proletariat, throwing more jobs open to natives, insisting on a real knowledge of the native languages He resisted the French passion for uniformity and the conviction that what is right in Paris must be right everywhere More place was given to native law and to native administration of the law On the eve of the Great War of 1914, France's greatest colony




Courtesy of the Foreign Policy Association.

was far more prosperous and far less discontented than even an optimist could have anticipated in 1900" [13]

In 1939 French Indo-China included four protectorates (Laos, Cambodia, Tonkin, and Annam) and the colony of Cochin-China The technical relationship of the first four to France resembled that of Morocco and Tunisia, and the French control, for the most part, was exercised through a resident general Soon after the fall of France the Japanese occupied the colony but they allowed the Vichy government a nominal authority At the beginning of 1945 the Japanese put an end to the comedy and interned the French officials, hoping that recognizing the independence of Annam (Viet Nam [14]) they might secure some help which if it would not stave off their impending defeat might at least help to break up the French and the Dutch hold on southeastern Asia To some degree these tactics were successful The Annamite Communists had organized the Viet Minh (League for the Independence of Viet Nam) headed by a resourceful Russian-trained leader named Ho Chi Minh Upon the surrender of Japan he proclaimed the independence of Viet Nam Was France to do as Great Britain was about to do with India, Pakistan, and Burma, or would she attempt some compromise that would give the new republic the same kind of dominion status as Ceylon was about to receive?

The Viet Minh did not wait to see De Gaulle offered Indo-China a federated status within the French Union, with autonomy but not independence No one at that time knew exactly how democratic and elastic the French Union was going to be, and the Viet Minh insisted on independence Fighting broke out which proved to be very costly in both men and money, it was an inauspicious beginning for the Union Finally, in 1949, a new constitution was granted to Viet Nam which seemed to prove satisfactory, the state would be independent in internal matters, could keep its own army, but would remain within the French Union, which meant that France was to direct its external affairs

Between September, 1945, and January, 1949, the French lost 14,128 soldiers in Indo-China, and about 110,000 troops, of which 44,000 are French, are maintained in the area All Asia as well as France would suffer from the stagnation of the Indo-Chinese economy Only after a political settlement has brought peace would large quantities of rice, rubber, maize, coal, and other raw materials once again enter the channels of world trade Some of this would go to France, and more of it would profit France indirectly by bringing much needed dollars into the franc zone

To these motives for a settlement there was in 1949 added another equally strong the sweeping victories of the Communists in China In the fall of 1947 the French decided they would not come to terms with Ho Chi Minh and turned to the former emperor of Annam, Bao Dai, who wishing to restore

[13] D W Brogan, *France Under the Republic* (New York, 1940), p 242

[14] Which contains 72 percent of the population (about 23,000,000) of Indo-China

peace had abdicated in favor of the republic and was living a life of poverty in Hong Kong His strategy was to appeal to the genuine nationalists as distinct from Communist agitators In March, 1949, he assumed the imperial title in Viet Nam, which includes Cochin-China, Annam, and Tonkin [15] Two months later (May 21) the National Assembly passed a bill abrogating the colonial status of Cochin-China and providing for its attachment to Viet Nam in accordance with the wish expressed by the Territorial Assembly of Cochin-China On June 4, 1949, in Saigon, the solemn ceremony of the exchange of treaties took place as provided in the March agreement and Bao Dai's government set to work upon a constitution The situation of the country is unique both in the French Union and in the comity of nations France binds itself to support the candidacy of Viet Nam for membership in the United Nations, when and if she is elected she will be the first member of the French Union to achieve membership Viet Nam is to have its own diplomatic representation, the credentials being granted by the President of the French republic The Council of the French Union is to examine all projects concerning its relations with outside powers or other members of the Union and "the favorable opinion of the High Council shall be necessary to render definitive the agreements thus concluded" The new state is to have its own national army, "assisted if necessary by the French Union forces" It is to maintain a university which will in time meet the standards of those in France proper [16]

A month later, in July, 1949, the next step was taken, when France granted membership in the French Union to the kingdom of Laos, lying between Siam and Viet Nam In October Cambodia by a treaty assumed the same status [17]

[15] *News from France,* French Embassy Information Service, June 12, 1947, prints in its entirety a speech (translated) delivered by Emile Bollaert, Socialist member of the Council of the Republic and High Commissioner to Indo-China in 1947, delivered at Hanoi in 1947, which was especially persuasive regarding the interdependence of French southeastern Asia and France proper The whole of this speech is worth reading for its intelligent and reasonable statement of the relations which should prevail between France, no longer imperialist, and a colony newly come to self-consciousness See also *France-Illustration* for June 4, 1949, a special, beautifully illustrated issue devoted entirely to Indo-Chinese problems, culture, and economics It includes an article on Bao Dai which probably reflects an overoptimistic picture of his abilities and prospects

[16] For the full text of the Franco-Viet Namese agreements of March 8, 1949, see *News from France,* September 15, 1949, which also gives a full history of the development of the political situation in southeastern Asia since 1945

[17] In addition to the references already given in this chapter, the following on the colonial question in general will be found useful Jacques Stern, *The French Colonies Past and Future* (New York, 1944), D W Brogan, *op cit*, bk v, H I Priestley, *France Overseas* (New York, 1938), S H Roberts, *History of French Colonial Policy, 1870-1925* (London, 1929), T F Power, Jr, *Jules Ferry and the Renaissance of French Imperialism* (New York, 1944), "The Development of the Political Situation in Indo-China," in *News from France,* Sept 15, 1949, Virginia Thompson and Richard Adloff, *Empire's*

The situation was, however, greatly complicated when in January, 1950, the Soviet government recognized the government of Ho Chi Minh This step, together with the accompanying recognition by the Communist Chinese government, was calculated to stiffen Ho's regime to the extent that unification of Viet Nam under Bao Dai would be made doubly difficult, and it became apparent that the war-torn country would be divided for a protracted period But Bao Dai declared that Moscow's action, far from strengthening Ho, would lose him the support of many Indo-Chinese nationalists who would not desire the support of a party obviously under the control of a foreign country

A month later the British and United States governments simultaneously recognized Bao Dai The State Department declared on February 3 that the French-Viet Namese agreements (ratified by the French Parliament on January 26) had been "definite steps in the process of evolution of Viet Nam, Laos and Cambodia [also recognized by the United States] as independent states, although the process had not progressed as far as in Indonesia"

### *THE COMPOSITION OF THE FRENCH UNION*

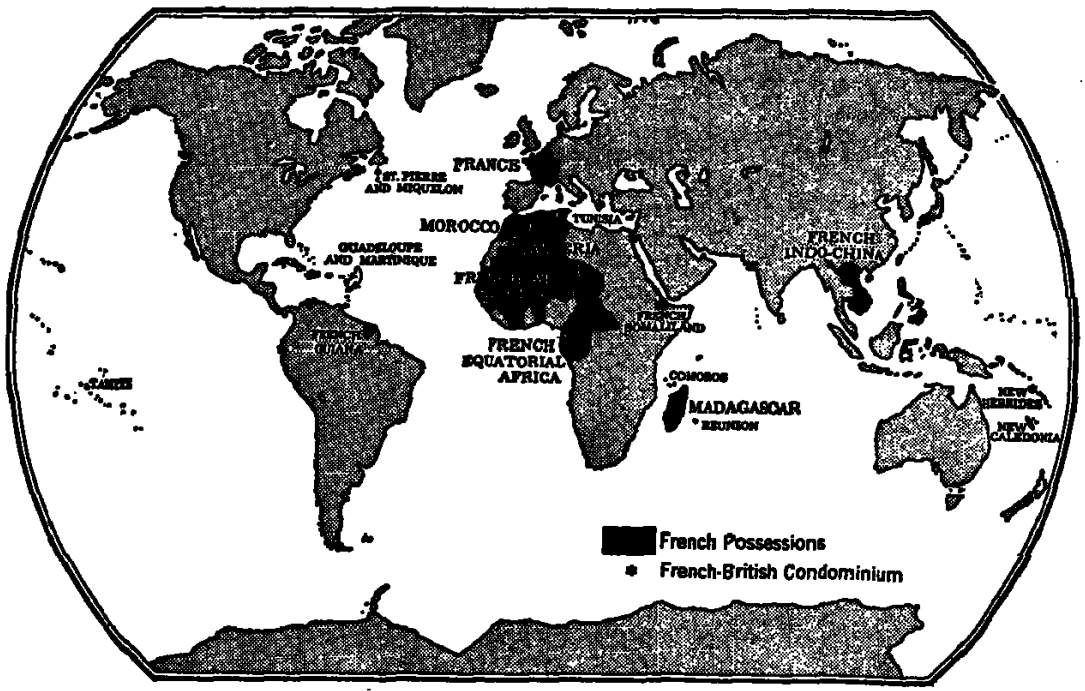
"The French Union is composed of nations and peoples who place in common or coordinate their resources and their efforts in order to develop their civilization, increase their well-being, and insure their security" (Preamble to the constitution) It is composed of (1) Continental France, (2) the overseas *départements*—Martinique, Guadaloupe, French Guiana, Réunion, Algeria (three *départements*), (3) the overseas territories—French West Africa, French Equatorial Africa, Somaliland, Comoro Islands, Madagascar, French Settlements in Oceania, New Caledonia, New Hebrides, St Pierre-Miquelon, (4) the associated territories of Togoland and Cameroons (trusteeship territories), (5) the associated states of Tunisia, Morocco, Viet Nam, Cambodia, Laos

### *COLONIAL REPRESENTATION IN THE FRENCH PARLIAMENT*

In the bicameral legislature of the Fourth Republic, 144 of 934 seats have been allotted to the colonies, whereas ten years ago the comparable figure for the Third Republic was only 27 out of 928 French colonials number about 70,000,000, citizens of metropolitan France total 40,000,000 Nearly half the

*End in Southeast Asia*, Headline series, Foreign Policy Association, no 78, December, 1949, Virginia Thompson, *Labor Problems in Southeast Asia* (New York, 1949), and in French M Aldoa, *Les Idees Coloniales de Jules Ferry* (Paris, 1933), M Reclus, *Jules Ferry* (Paris, 1947), R L Delevignette, *Les Constructeurs de la France d'Outre-Mer* (Paris, 1946), H Blet, *Histoire de la Colonisation Française* (Grenoble, 1946-49), J and J Tharaud, "La France d'Outre-Mer" in vol 1 of *La France Immortelle* (Paris, 1946), profusely illustrated B Lavergne, *Une Revolution dans la Politique Coloniale de la France* (Paris, 1948), particularly interesting on the problem of the legitimacy and benevolent character of colonization in general, as well as French, Michel Deveze, *La France d'Outre-Mer* (Paris, 1948), French colonization and its evolution from 1939 to 1948

70,000,000 inhabitants of France Overseas live in Tunisia, Morocco, and the Indo-Chinese Federation. These three territories, however, are to have a considerable degree of autonomy and are therefore practically unrepresented in Parliament (see chart).




The French Union. (Courtesy of the Foreign Policy Association.)

The constitutional debate on methods of electing colonial representatives to the new Parliament revealed a complicated dispute between advocates of single and double (part French and part native) electoral colleges. This conflict resulted in the provision for double colleges in four areas—Algeria, French Equatorial Africa, French Cameroons, and Madagascar. France sought to safeguard the interests of metropolitan minorities overseas. For reasons peculiar to the history of the various regions, this aim led the French to advocate double colleges for areas like Algeria and Equatorial Africa but single colleges for West Africa and other territories. In general, the African people favored the single college.

## France Overseas—Representatives in French Parliament

| Type of Territory | Population | Type of Electoral College | 1936 Chamber of Deputies (612) | 1936 Senate (314) | 1946 National Assembly (619) | 1946 Council (315) |
|---|---|---|---|---|---|---|
| **Overseas departments** | | | | | | |
| Algeria (3 departments) | 7,235,000 | Native | 10 | 3 | 15 | 14 |
| | | French[a] | | | 15 | |
| Martinique | 247,000 | French | 2 | 1 | 3 | 2 |
| Guadeloupe | 304,000 | French | 2 | 1 | 3 | 2 |
| Réunion | 209,000 | French | 2 | 1 | 3 | 2 |
| French Guiana | 37,000 | French | 1 | — | 1 | 1 |
| **Overseas territories** | | | | | | |
| French West Africa | | | | | | |
| Senegal | 1,698,000 | French | 1 | — | 2 | 3 |
| Guinea | 2,600,000 | French | — | — | 1 | 2 |
| Mauritania | 385,000 | French | — | — | 1 | 1 |
| Sudan | 3,635,000 | French | — | — | 3 | 4 |
| Niger | 1,810,000 | French | — | — | 1 | 2 |
| Ivory Coast | 3,982,000 | French | — | — | 3 | 5 |
| Dahomey | 1,290,000 | French | — | — | 1 | 2 |
| French Equatorial Africa | | | | | | |
| Gabon | 418,000 | Native | — | — | 1 | 2 |
| Middle Congo | 747,000 | Native | — | — | 1 | 2 |
| Ubangi-Shari | 834,000 | Native | — | — | 1 | 2 |
| Chad | 1,432,000 | Native | — | — | 1 | 2 |
| Gabon-Middle Congo | | French | — | — | 1 | |
| Ubangi-Shari—Chad | | French | — | — | 1 | |
| Madagascar | 3,667,000 | Native | — | — | 3 | 5 |
| | | French | — | — | 2 | |
| St Pierre-Miquelon | 4,000 | French | — | — | 1 | 1 |
| French India | 324,000 | French | 1 | 1 | 1 | 2 |
| New Caledonia | 54,000 | French | — | — | 1 | 1 |
| French Oceania | 44,000 | French | — | — | 1 | 1 |
| French Somaliland | 47,000 | French | — | — | 1 | 1 |
| Comoro Islands | 130,000 | French | — | — | 1 | 1 |
| Cochin-China (uncertain) | 4,600,000 | French | 1 | — | 1 | |
| **Trust Territories** | | | | | | |
| French Cameroons | 2,389,000 | Native | — | — | 2 | 3 |
| | | French | — | — | 1 | |
| French Togoland | 780,000 | French | — | — | 1 | 2 |
| **Associated territories and states** | | | | | | |
| Tunisia | 2,609,000 | Elected by | — | — | — | 2 |
| Morocco | 6,297,000 | Nat Ass | — | — | — | 3 |
| Indo-Chinese Federation (uncertain) | 24,000,000 | to represent French citizens only | — | — | — | — |
| Total representation | | | 20 | 7 | 74 | 70[b] |

[a] French electoral colleges include Frenchmen and natives who have become French citizens

[b] Representation figures for the Assembly and Council are given in the respective laws of October 5 and October 27, 1946 see *Journal Officiel de la République Française*, October 8, 1946, pp 8494–8498, and October 28, 1946, pp 9176–9177

# Chapter 22

# *Conclusion*

WITH what prospects does France face the future? "Those who neglect the past," said Santayana, "are doomed to repeat its mistakes." Risky as they are, we are encouraged to make generalizations and ask questions by hearing Professor J R Strayer say, in *The Interpretation of History* (Princeton, 1943) "If history is to be a guide to life, it must deal with whole situations, not mere isolated facts, it must deal with causes and effects, not mere chronological sequences If formal history is to widen and deepen our own personal experience, if it is to be a guide to action and not an escape from reality, it must make generalizations and draw conclusions"

The future is always the result not of the immediate past but of the whole of the past The betrayers of French democracy had short memories, or else they assumed that the desperate conditions of 1940 had changed the French temperament It is well that they should have found that they could not put the new wine of fascism into the old bottles of the Third Republic, even when watered down with Vichy Authoritarianism in France is now irrevocably linked with national humiliation a bad omen for De Gaulle, a good portent for the political future of the country

The government has learned that it can deal with strikes, drastically if necessary, without disaster In the fall of 1947 and again in the fall of 1948 it settled insurrectionary strikes If an employee of a nationalized industry strikes, he strikes against the government, and the government can be as drastic as it feels itself to be strong and just[1] In proportion as Communist strength wanes, strikes will of course be fewer Never has any French government been ready to deal so promptly with labor disputes as was that of M Queuille after the Communist-inspired disturbances of 1948 The Minister of the Interior has a police force of no less than 122,000 men, mostly Republican Guards and gendarmerie The territory of the republic has been divided

[1] See Pertinax, "Insurrection Fades in France," *Foreign Affairs*, October, 1949, 28 30-42, in which he maintains that the Communists were so badly discredited by the labor troubles referred to above, and have been so badly handicapped by the help of the E R P to western Europe, that "they now have no chance to govern France unless there is an invasion of French territory by the Red Army"

into eight districts, not including Paris, and an inspector general put at the head of each In November, 1948, the coal mines in the north were retaken from the strikers within five days, although the guards were forbidden to fire no matter what the provocation

The government has learned that it can deal with inflation, the amount of bank notes in circulation is less than it was before the war (if the depreciation of the currency is taken into account) The government is keeping its pledge to the United States that it will not call upon the assistance of the Bank of France when its revenue falls below its expenditure On April 1, 1949, the debt of the government to the bank was decreased by 25,000,000,000 francs

But has the government shown that it can balance the budget? Can it overhaul the system of taxation which has heretofore favored the peasantry, because it represents a solid voting bloc? Can it catch up on its arrears of industrial equipment, with or without the Monnet Plan and American help? Knowing that she cannot place absolute dependence on the latter, France is assuring her man in the street that the only permanent alternative is a reappearance of his old habits of thrift and saving, so largely destroyed by the inflationary practices of the last thirteen years

If France can balance her budget and perhaps do even better, what will she then be tempted to do? Pertinax[2] thinks that her appropriations for armaments have fallen too low 5 percent of the national income for 1949 as against 6 3 percent in 1948, "American experts in France have not been slow to point out that such a relaxation of our military effort is not in keeping with the signs of the times" But can she afford the army which the American experts are supposed to require? In the fall of 1949 the strength of the regular army was 470,000, the smallest in recent French history, divided as follows 150,000 in France itself, 169,000 overseas, 60,000 in Germany and Austria, and 91,000 in North Africa In addition, there are 67,000 in the air force and 53,500 in the navy

Can France afford to continue the experiment of nationalization? England is already experiencing grave doubts France is beginning to realize that what is wrong (provided one accepts the general principle) is that the nationalized industries are being administered in watertight compartments, profit in some could compensate for losses in others

Gradually more and more Frenchmen are beginning to realize the futility of making tremendous sacrifices for an outmoded tradition the idea that France must in the future as in the past be a "great" power In the light of the last thirty years, they are even beginning to consider what national greatness is. No intelligent student of history or psychology can imagine that one country, France or any other, is destined to remain forever what history agrees to call a first-class power Seignobos in 1933 wrote in his *Sincere History of the French Nation* "The destruction of the three military

[2] "France Gets to Her Feet," in *Foreign Affairs*, April, 1949, 27 389-402

empires *temporarily* made France pass to the rank of dominating power in Europe" "Providing," once remarked a wise and liberal professor of the University of Dijon, "providing we remain a first-class power in liberty, justice, and intelligence, that is the only thing which counts"

To say that France will resume her European function and recover her influence among the nations as her rejuvenescence becomes a patent fact sounds like a truism But this must be stressed whenever the Western world has had to endure moral and material changes which shook its foundations, men have for many generations looked to France for the new pattern of society which they felt was to emerge

## Appendix to Part II

# *Text of the French Constitution*[1]

Approved by the French People, Sunday, October 13, 1946

### Preamble

On the morrow of the victory of the free peoples over the regimes that attempted to enslave and degrade the human person, the French people proclaims again that every human being, without distinction of race, religion or belief, possesses inalienable and sacred rights It solemnly reaffirms the freedoms of man and of the citizen consecrated by the declaration of rights of 1789 and the fundamental principles recognized by the laws of the Republic

It proclaims, moreover, as particularly necessary in our time, the following political, economic and social principles

The law guarantees to women in all domains equal rights with those of man

Anyone persecuted because of his acts in favor of liberty has the right of asylum on the territories of the Republic

Every one has the duty to work and the right to obtain employment No one may suffer in his work or his employment by reason of his origins, his opinions or his beliefs

Every man may defend his rights and interests by trade-union action and may join the union of his choice

The right to strike is exercised within the framework of the laws that govern it

Every worker, through his delegates, participates in collective bargaining on working conditions as well as in the management of business

All property and all businesses whose exploitation has acquired the characteristics of a national public service or a monopoly in fact should become the property of the community

The nation assures to the individual and to the family the conditions necessary to their development

[1] Footnotes are supplied by the author

It guarantees to all, and notably to the child, to the mother and to aged workers, protection for health, material security, rest and leisure

Every human being who, by reason of his age, physical or mental condition or economic situation, finds himself incapable of work has the right to obtain from the community the means of decent living

The nation proclaims the solidarity and equality of all French citizens with regard to the burden resulting from national calamities

The nation guarantees equal access of the child and the adult to instruction, to vocational training and to culture The organization of free and secular public education at all stages is a duty of the state

The French Republic, faithful to its traditions, conforms to the rules of international law It will undertake no war with a view to conquest and will never employ its forces against the liberty of any people

On condition of reciprocity, France consents to the limitations of sovereignty necessary to the organization and defense of peace

France forms with the peoples overseas a union founded on the equality of rights and duties without distinction of race or religion

The French Union is composed of nations and peoples placing in common, or coordinating, their resources and their efforts to develop their civilization, to increase their well-being and to assure their security

Faithful to her traditional mission, France proposes to guide the peoples for whom she has assumed responsibility toward freedom to govern themselves and democratically to manage their own affairs, putting aside all systems of colonization founded on arbitrary power, she guarantees to all access to public office and the exercise of the individual or collective rights and liberties proclaimed or confirmed above

## Institutions of the Republic

### *Title I Sovereignty*

#### ARTICLE 1

France is a republic—indivisible, secular, democratic and social

#### ARTICLE 2

The national emblem is the tricolor flag—blue, white and red—in three vertical bands of equal dimensions

The national hymn is the "Marseillaise"

The motto of the Republic is "Liberty, Equality, Fraternity"

Its principle is government of the people, for the people and by the people.

#### ARTICLE 3

The national sovereignty belongs to the French people

No section of the people nor any individual may assume its exercise

The people in constitutional matters act by the vote of their representatives and by the referendum

In all other matters they exercise sovereignty through their deputies in the National Assembly, elected by universal, equal, direct and secret suffrage

ARTICLE 4

Under conditions determined by the law, all French nationals who are majors of both sexes enjoying their civil and political rights are voters

*Title II The Parliament*

ARTICLE 5

The Parliament is composed of the National Assembly and the Council of the Republic

ARTICLE 6

The duration of the powers of each Assembly, its mode of election, the conditions of eligibility, the basis of ineligibilities and incompatibilities are fixed by the law [2]

However, the two Chambers are elected on a territorial basis—the National Assembly by universal direct suffrage, the Council of the Republic by the communal and departmental units by universal indirect suffrage

The Council of the Republic is renewable, one-half at a time

Nevertheless, the National Assembly may itself elect by proportional representation councilors whose number shall not exceed one-sixth of the total number of members of the Council of the Republic

The number of members of the Council of the Republic may not be less than one-third or more than half the number of members of the National Assembly

ARTICLE 7

War may not be declared without a vote of the National Assembly and concurrence in advance by the Council of the Republic

ARTICLE 8

Each of the two Chambers is the judge of the eligibility of its members and of the regularity of their election, it alone may receive their resignations

ARTICLE 9

The National Assembly convenes by right in annual session on the second Tuesday of January.

The total duration of interruptions of the session may not exceed four

[2] The law of October 5, 1946 (no 46-2151, "On the Election of Members of the National Assembly"), contains thirty-seven articles, of which art 36 says "The National Assembly shall be elected for five years"

months Any adjournments of sittings of more than ten days are considered as interruptions

The Council of the Republic sits at the same time as the National Assembly

ARTICLE 10

The sittings of the two Chambers are public Reports of debates in extenso, as well as the parliamentary documents, are published in the Official Journal Each of the two Chambers may convene as a secret committee

ARTICLE 11

Each of the two Chambers elects its secretariat each year at the beginning of the session in accordance with the proportionate representation of the party groups

When the two Chambers meet together to elect the President of the Republic, their secretariat is that of the National Assembly.

ARTICLE 12

When the National Assembly is not sitting, its secretariat, checking on the actions of the Cabinet, may convoke the Parliament, it must do this on the request of one-third of the deputies or on that of the Premier.

ARTICLE 13

The National Assembly alone may vote the laws It may not delegate this right

ARTICLE 14

The Premier and members of Parliament have the initiative in legislation

Bills and proposed laws formulated by the members of the National Assembly are tabled with its secretariat

The proposals framed by the members of the Council of the Republic are tabled with its secretariat and transmitted without debate to the secretariat of the National Assembly These may not be received when they would have as a consequence the reduction of receipts or the creation of new outlays

ARTICLE 15

The National Assembly studies the projects and proposals submitted it in its committees, of which it fixes the number, composition and competence

ARTICLE 16

The budget proposal is submitted to the National Assembly

This law must include only strictly financial dispositions

An organic law will regulate the method of presentation of the budget

ARTICLE 17

The Deputies of the National Assembly possess the initiative in expenditures

However, no proposal for increasing expenditures or creating new expenditures may be presented during the discussion of the budget or of prospective or supplementary credits

ARTICLE 18

The National Assembly supervises the accounts of the nation

In this it is assisted by an accounting court The National Assembly may entrust to the accounting court any inquiries or studies connected with public revenues and expenses or the management of the treasury

ARTICLE 19

Amnesty may be accorded only by law

ARTICLE 20

The Council of the Republic examines proposed laws voted on first reading by the National Assembly

It gives its opinion at the latest within two months after a measure is sent to it by the National Assembly

When a budget law is involved, this delay is reduced, if desirable, to such an extent as not to exceed the time expended by the National Assembly in its examination and vote When the National Assembly has decided on an urgent procedure, the Council of the Republic gives its advice in the same time as that provided for discussion in the National Assembly in settlement of the matter The delays provided in the present article are suspended during interruptions of the session They may be prolonged by a decision of the National Assembly

If the advice of the Council of the Republic conforms, or if it has not been given within the period provided in the preceding part, the law is promulgated as voted by the National Assembly

If its advice does not conform, the National Assembly examines the project or proposal for a law in a second reading It determines definitively and in sovereign right the amendments submitted by the Council of the Republic, accepting or rejecting them in whole or in part In case of total or partial rejection of these amendments, the vote in the second reading takes place by public ballot by an absolute majority of the members composing the National Assembly, when the vote on the whole has been expressed by the Council of the Republic under the same conditions

ARTICLE 21

No member of Parliament may be prosecuted, arrested, detained or judged on the basis of opinions or votes expressed by him in the exercise of his functions

ARTICLE 22

No member of Parliament may, during his term of office, be prosecuted or arrested for a criminal offense except with the authorization of the Chamber to which he belongs, except in case of a major crime The detention or prosecution of a member of Parliament is suspended if the Chamber to which he belongs requests it

ARTICLE 23

Members of Parliament receive compensation fixed in relation to a grade of civil servants

ARTICLE 24

No one may belong at the same time to the National Assembly and the Council of the Republic Ministers of Parliament may not be members of the Economic Council or of the Assembly of the French Union

## *Title III The Economic Council*

ARTICLE 25

An Economic Council whose status is fixed by law examines and advises on proposed laws in its domain These proposed laws are submitted to it by the National Assembly before the Assembly discusses them

The Economic Council may also be consulted by the Cabinet It must be so consulted on the adoption of a national economic plan for the full employment of men and the rational use of material resources

## *Title IV Diplomatic Treaties*

ARTICLE 26

Diplomatic treaties duly ratified and published have the force of law, even when contrary to domestic French laws, requiring for their application no legislative acts beyond those necessary to insure their ratification

ARTICLE 27

Treaties relative to international organization, peace treaties, commercial treaties, treaties that involve state finances, those relating to the status of persons and to the property rights of French citizens abroad and those that modify French internal laws as well as those that involve the cession, exchange or addition of territory do not become definitive until after having been ratified by a law

No cession, no exchange and no addition of territory is valid without the consent of the interested populations

ARTICLE 28

Diplomatic treaties duly ratified and published having an authority superior to that of internal laws, their provisions may not be abrogated, modified or

suspended without a previous regular denunciation notified through diplomatic channels When one of the treaties mentioned in Article 27 is involved, exception must be authorized by the National Assembly

### *Title V The President of the Republic*

ARTICLE 29

The President of the Republic is selected by the Parliament He is elected for seven years He is eligible for re-election only once

ARTICLE 30

The President of the Republic appoints in the Cabinet the Councilors of State, the Grand Chancellor of the Legion of Honor, Ambassadors and envoys extraordinary, members of the Superior Council and of the Committee of National Defense, rectors of universities, prefects, chiefs of central administration, general officers and representatives of the Government in overseas territories

ARTICLE 31

The President of the Republic is kept informed of international negotiations

The President of the Republic accredits Ambassadors and envoys extraordinary to foreign powers, foreign Ambassadors and envoys extraordinary are accredited to him

ARTICLE 32

The President of the Republic presides over the Cabinet He causes to be established and has custody of the reports of the sittings

ARTICLE 33

The President of the Republic presides with the same attributes over the Superior Council and the Committee of National Defense and assumes the title of chief of the armies

ARTICLE 34

The President of the Republic presides over the Superior Council of the Magistracy

ARTICLE 35

The President of the Republic exercises the right of pardon in the Superior Council of the Magistracy

ARTICLE 36

The President of the Republic promulgates the laws within ten days after the transmission of a law definitively adopted by the Government This delay is reduced to five days if urgency is declared by the National Assembly

Within the period fixed for promulgation the President of the Republic

may, in a message, ask the two Chambers for a new deliberation, which may not be refused

In default of promulgation by the President of the Republic within the limits fixed by the present Constitution, it shall be accomplished by the President of the National Assembly

ARTICLE 37

The President of the Republic communicates with Parliament by messages addressed to the National Assembly

ARTICLE 38

Each official action of the President of the Republic must be countersigned by the Premier and by a Minister

ARTICLE 39

Fifteen days at least, and thirty days at most, before the expiration of the powers of the President of the Republic, Parliament elects a new President

ARTICLE 40

If in the application of the preceding article the election takes place when the National Assembly is dissolved in conformity with Article LI, the powers of the President in office are extended until the election of a new President Parliament will elect this new President within ten days after the election of a new National Assembly

ARTICLE 41

In case of disability noted by a vote of Parliament or in case of vacancy through death, resignation or any other cause, the President of the National Assembly provisionally assumes interim functions of the President of the Republic He will be replaced by a Vice President

A new President of the Republic is elected within ten days, except under the conditions mentioned in the preceding article

ARTICLE 42

The President of the Republic may be tried only in case of high treason

He may be placed under accusation by the National Assembly and arraigned before the High Court of Justice under the conditions provided in Article 57 below

ARTICLE 43

The function of the President of the Republic is incompatible with any other function

ARTICLE 44

Members of families having reigned in France are ineligible for the Presidency of the Republic

## *Title VI The Cabinet*

### ARTICLE 45

At the opening of each Legislature, the President of the Republic, after the customary consultations, designates the Premier [3]

The latter may not constitute his Cabinet until invested with the confidence of the Assembly expressed by a public vote of an absolute majority of the Deputies, except if *force majeure* prevents the meeting of the National Assembly

The same procedure is followed during the sitting of the Legislature in case of vacancy through death, resignation or any other cause, with the exception cited in Article 52 below

No ministerial crisis occurring within fifteen days of the nomination of the Ministers will count for the application of Article 51

### ARTICLE 46

The Premier and the Ministers chosen by him are named by a decree of the President of the Republic

### ARTICLE 47

The Premier assures the execution of the laws He appoints all civil and military officials except those referred to in Articles 30, 46 and 84

The Premier assures the high direction of the armed forces and coordinates the putting into operation of the national defense

The acts of the Premier mentioned in the present article are countersigned by the interested Ministers

### ARTICLE 48

The Ministers are collectively responsible to the National Assembly for the general policy of the Cabinet and individually for their personal actions

They are not responsible to the Council of the Republic

### ARTICLE 49

A question of confidence may not be placed except after deliberation by the Cabinet, it may not be placed except by the Premier

The vote on a question of confidence may not take place until a whole day after it has been placed before the Assembly It takes place by public vote

[3] The Prime Minister has to go through four stages When first approached by the President of the republic, he, reserving his answer, is only the "requested president" of the future Council Consulting the party leaders and weighing his chances of success, he then returns to the Elysee If he accepts, he becomes the "president-designate" of the Council He then goes alone before the National Assembly to receive the constitutional investiture If he receives more than half of the votes of all the members (irrespective of their presence) he then becomes "invested president" He now chooses his ministers and is finally "president" of the Council Bidault, in October 1949, combined the last two stages

Confidence may not be refused to the Cabinet except by an absolute majority of the Deputies of the Assembly

This refusal entails the collective resignation of the Cabinet

ARTICLE 50

The voting of a motion of censure by the National Assembly entails the collective resignation of the Cabinet

This vote cannot occur until a full day after the deposit of the motion It takes place by public ballot

The motion of censure may not be adopted except by an absolute majority of the Deputies of the Assembly

ARTICLE 51

If in the same period of eighteen months two Ministerial crises occur under the conditions mentioned in Articles 49 and 50, the dissolution of the National Assembly may be decided by the Cabinet according to the advice of the President of the Assembly The dissolution shall be pronounced in conformity with this decision by a decree of the President of the Republic

The dispositions of the preceding paragraph are applicable only after the expiration of the first eighteen months of the legislature

ARTICLE 52

In case of dissolution, the Cabinet, except the Premier and the Minister of the Interior, remains in office for the dispatch of current affairs

The President of the Republic designates the President of the National Assembly as Premier The latter designates a new Minister of the Interior in agreement with the secretariat of the National Assembly He designates as Ministers of State members of the groups not represented in the Government

General elections take place at least twenty days and not more than thirty days after the dissolution

The National Assembly convenes by right on the third Thursday after its election

ARTICLE 53

The Ministers have access to the two Chambers and their committees They must be heard when they request it

They may have themselves invited to participate in discussions before the Chambers by committee members designated by decree

ARTICLE 54

The Premier may delegate his powers to a Minister

ARTICLE 55

In case of vacancy through death or for any other reason, the Cabinet designates one of its members to exercise provisionally the functions of Premier

### *Title VII The Penal Responsibility of Ministers*

ARTICLE 56

Ministers are responsible penally for the crimes and offenses committed in the exercise of their functions

ARTICLE 57

Ministers may be placed under accusation by the National Assembly and ordered before the High Court of Justice

The National Assembly decides by secret ballot and in accordance with an absolute majority of the members of which it is composed, except those who are participating in the prosecution in the inquiry or in judgment

ARTICLE 58

The High Court of Justice is elected by the National Assembly at the opening of each legislature

ARTICLE 59

The organization of the High Court of Justice and its procedure are determined by a special law

### *Title VIII The French Union*

#### Section 1 Principles

ARTICLE 60

The French Union is formed on the one hand by the French Republic which includes metropolitan France and the departments and territories overseas, and on the other hand by the territories or associated States

ARTICLE 61

The situation of the associated States in the French Union depends for each of them on the act that defines its relations with France

ARTICLE 62

The members of the French Union place in common their entire means for guaranteeing the whole of the Union The Government of the Republic assumes the coordination of these means and the direction of policy suitable for preparing and assuming this defense

#### Section 2 Organization

ARTICLE 63

The central organs of the French Union are the Presidency, the High Council and the Assembly

ARTICLE 64

The President of the Republic is the President of the French Union, whose permanent interests he represents

ARTICLE 65

The High Council of the French Union is composed, under the presidency of the President of the Union, of a delegation of the French Government and the representation that each of the associated States has the power to accredit to the President of the Union

It has the function of assisting the Government in the general conduct of the Union

ARTICLE 66

The Assembly of the French Union is composed half of members representing metropolitan France and half of members representing the overseas departments and territories and the associated States

An organic law shall determine the conditions under which the different parts of the populations will be represented

ARTICLE 67

The members of the Assembly of the Union are elected by territorial assemblies with respect to overseas departments and territories, they are elected in metropolitan France to the number of two-thirds by members of the National Assembly representing the home country and to the number of one-third by members of the Council of the Republic representing the home country

ARTICLE 68

The associated States may designate delegates to the Union Assembly within the limits and conditions fixed by an internal law and act in each State

ARTICLE 69

The President of the French Union convokes the Assembly of the French Union and closes its sessions He must convoke it on the demand of half its members

The Assembly of the French Union may not sit during interruptions of sessions of Parliament

ARTICLE 70

The rules of Articles 8, 10, 21, 22 and 23 are applicable to the French Union under the same conditions as to the Council of the Republic

ARTICLE 71

The Assembly of the French Union receives projects or proposals that are submitted for its opinion by the National Assembly or the Government of the French Republic or the governments of associated States

The Assembly is qualified to pronounce on resolutions submitted to it by one of its members and, if they are taken into consideration, to instruct its secretariat to transmit them to the National Assembly It may make proposals to the French Government and to the High Council of the French Union

To be admissible, the resolutions referred to in the preceding paragraph must relate to legislation concerning overseas territories

ARTICLE 72

In the overseas territories the legislative power belongs to Parliament as concerns criminal legislation, the regime of public liberties and political and administrative organization

In all other matters French law is applicable in the overseas territories only by special order or if it has been extended by decree to the overseas territories after consultation with the Assembly of the Union

Moreover, as an exception to Article 13, special dispositions may be applied by edict to each territory by the President of the Republic in the Cabinet with the advice of the Assembly of the Union

## Section 3 Departments and Overseas Territories

ARTICLE 73

The legislative regime of the overseas departments is the same as that of metropolitan departments save for exceptions fixed by law

ARTICLE 74

The overseas territories are endowed with special status taking into account their special interests in the general interests of the Republic

This status and the interior organization of each overseas territory or each group of territories are fixed by law after the advice of the Assembly of the French Union and consultation with the territorial Assemblies

ARTICLE 75

The respective status of members of the Republic and of the French Union are susceptible to evolution

Modification of the status and passage from one category to another within the framework set by Article 60 may result only from a law voted by Parliament after consultation with the territorial assemblies and the Assembly of the Union

ARTICLE 76

The representative of the Government in each territory or group of territories is the depository of the powers of the Republic He is the chief of the administration of the territory

He is responsible for his acts to the Government.

ARTICLE 77

In each territory an elected Assembly is instituted The electoral regime and the composition and competence of this Assembly are fixed by law

ARTICLE 78

In groups of territories the management of common interests is confided to an Assembly composed of members elected by the territorial Assemblies Its composition and powers are fixed by law

ARTICLE 79

The overseas territories elect representatives to the National Assembly and the Council of the Republic under conditions determined by law

ARTICLE 80

All natives of overseas territories have the status of citizens with the same standing as French citizens of metropolitan France or of overseas territories Special laws will establish the conditions under which they will exercise their rights of citizenship

ARTICLE 81

All French natives and natives of the French Union are citizens of the French Union, which assures them the enjoyment of the rights and liberties guaranteed by the preamble of the present Constitution

ARTICLE 82

Those citizens who have not French civil status will preserve their personal status as long as they have not renounced it This status cannot in any case constitute a motive for refusing or limiting the rights and liberties pertaining to the status of French citizen

## *Title IX The Superior Council of the Magistracy*

ARTICLE 83

The Superior Council of the Magistracy is composed of fourteen members the President of the Republic, presiding, the Keeper of the Seals, Minister of Justice, vice president, six persons elected for six years by the National Assembly by a two-thirds majority and chosen outside its membership, and six alternates elected under the same conditions, six persons designated as follows four magistrates elected for six years each, representing a category of magistrates under conditions prescribed by law, and four alternates elected under the same conditions, two members designated for six years by the President of the Republic outside Parliament and the magistracy but from the judiciary professions, and two alternates designated under the same conditions

The decisions of the Superior Council of the Magistracy are taken by a majority In case of a tie vote, that of the President is deciding

ARTICLE 84

The President of the Republic appoints magistrates from a list submitted by the Superior Council of the Magistracy, except those of the public prosecutor's office

The Superior Council of the Magistracy assures, in conformity with the law, the discipline of its magistrates, their independence and the administration of judiciary tribunals The presiding magistrates are not removable

*Title X Local Government Units*

ARTICLE 85

The French Republic, one and indivisible, recognizes the existence of local government units These units are communes, departments and overseas territories

ARTICLE 86

The framework, the scope and the eventual regrouping of communes, departments and overseas territories are fixed by law

ARTICLE 87

Local government units freely administer themselves through Councils elected by universal suffrage The execution of the decisions of these Councils is assured by their Mayors or their Presidents

ARTICLE 88

The coordination of the activities of state officials, the representation of the national interests and the administrative supervision of local government units are assured within the departments by the delegates of the Government designated by the Cabinet

ARTICLE 89

Organic laws will extend departmental and municipal liberties, they may provide for certain large town structures and manners of functioning that differ from those of small communes and that entail special dispensations for certain departments, they will determine the conditions of application of Articles 85-88 above

Laws will likewise determine the conditions under which local services of central administrations will function in order to bring the administration closer to the people

*Title XI The Revision of the Constitution*

ARTICLE 90

Revision takes place in the following manner

Revision is to be decided by a resolution adopted by an absolute majority of the members composing the National Assembly

The resolution stipulates the object of the revision

After at least three months it undergoes a second reading under the same conditions, unless the Council of the Republic, to which the resolution has been referred by the National Assembly, has adopted by an absolute majority the same resolution

After the second reading, the National Assembly drafts a bill for the revision of the Constitution This bill is submitted to Parliament and voted by a majority in the manner of an ordinary law

It is submitted to a referendum unless it has been adopted on a second reading by the National Assembly by a majority of two-thirds or been voted by a majority of three-fifths by each of the two houses

No constitutional revision touching the existence of the Council of the Republic can be made without the concurrence of that Council or resort to a referendum

The bill is promulgated as constitutional law by the President of the Republic within eight days of its adoption

ARTICLE 91

The constitutional committee is presided over by the President of the Republic

It includes the President of the National Assembly, the President of the Council of the Republic, seven members elected by the National Assembly at the beginning of each annual session by proportional representation of groups and chosen outside its membership, and three members elected under the same conditions by the Council of the Republic

The constitutional committee determines whether laws voted by the National Assembly entail a revision of the Constitution

ARTICLE 92

In the period allowed for the promulgation of the law, the committee receives a joint request from the President of the Republic and the President of the Council of the Republic, the Council having decided by an absolute majority of its members The committee examines the law, strives for agreement between the National Assembly and the Council of the Republic and, if it does not succeed, takes its decision within five days from its receipt of the request This period may be reduced to two days in case of urgency

It is competent to decide on the possibility of revision of only Titles I to X of the present Constitution

ARTICLE 93

A law that, in the opinion of the committee, entails a revision of the Constitution is sent back to the National Assembly for further consideration

If Parliament adheres to its original vote, the law may not be promulgated until the Constitution has been revised in the manner provided in Article 82

If the law is considered in conformity with the provisions of Titles I to X of the present Constitution, it is promulgated within the period provided in Article 36, which period is prolonged by the addition of the periods provided in Article 92 above

ARTICLE 94

In case of the occupation of all or part of the metropolitan territory by foreign forces, no procedure of revision may be started or continued

ARTICLE 95

The republican form of government may not be the subject of a proposal of revision

*Title XII Temporary Provisions*

ARTICLE 96

A secretariat of the National Constituent Assembly is charged with assuring the permanence of national representation until the meeting of the Deputies of the new National Assembly

ARTICLE 97

In case of exceptional circumstances, the Deputies belonging to the National Constituent Assembly may, until the date provided in the preceding article, be called into session by the secretariat either on their own initiative or at the request of the Government

ARTICLE 98

The National Assembly will meet with full authority on the third Thursday after the general elections The Council of the Republic will meet on the third Tuesday after its election The present Constitution will take effect from that date

Until the meeting of the Council of the Republic, the organization of public powers will be determined by the law of Nov 2, 1945, the National Assembly having the attributes conferred by that law on the National Constituent Assembly

ARTICLE 99

The Provisional Government formed under Article 98 will hand its resignation to the President of the Republic on his election by Parliament under the conditions fixed by Article 29 above

ARTICLE 100

The secretariat of the National Constituent Assembly is charged with preparing the meeting of the Chambers created by the present Constitution and providing for them, before the meeting of their respective secretariats, the meeting places and administrative facilities necessary to their functioning

ARTICLE 101

During a period of not more than one year dating from the meeting of the National Assembly, the Council of the Republic may officially deliberate when two-thirds of its members have been proclaimed elected

ARTICLE 102

The first Council of the Republic will be renewed entirely in the year after the renewal of the municipal councils, which shall take place within one year dating from the promulgation of the Constitution

ARTICLE 103

Until the organization of the Economic Council and during a maximum period of three months dating from the meeting of the National Assembly, the application of Article 25 of the present Constitution shall be suspended

ARTICLE 104

Until the meeting of the Assembly of the French Union and during a maximum period of one year dating from the meeting of the National Assembly, the application of Articles 71 and 72 of the present Constitution shall be suspended

ARTICLE 105

Until the promulgation of the laws provided for in Article 89 of the present Constitution and without prejudice to measures fixing the status of various departments and overseas territories, the departments and communes of the French Republic will be administered in conformity with existing laws except for Paragraphs 2 and 3 of Article 97 of the law of April 5, 1884, for the application of which the police of the state shall be placed at the disposal of mayors

Nevertheless, the acts of the prefect in his capacity as representative of the department will be carried out by him under the permanent supervision of the president of the departmental assembly

The provisions of the preceding paragraph are not applicable to the Department of the Seine

ARTICLE 106

The present constitution will take effect on the day of the meeting of the National Assembly The National Assembly will meet with full authority on the third Thursday after the general elections

Until the first meeting of the Council of the Republic, the organization of public powers will continue to be determined by the constitutional law of Oct 21, 1945, the National Assembly taking the place of the Constituent Assembly

ARTICLE 107

The present Constitution will be promulgated by the President of the Provisional Government of the Republic within two days after the date of the proclamation of the results of the referendum and in the following form "The National Constituent Assembly has adopted, the French people have approved and the President of the Provisional Government of the Republic promulgates the Constitution that follows (the text of the Constitution) "

# A Table of Dates

| | | |
|---|---|---|
| 1789 | May 4 | The States-General meet at Versailles the King confesses the bankruptcy of the state and his inability to govern without popular aid |
| | July 14 | The Bastille falls a visible symbol of the King's habit of imprisoning whom he would, without trial, by means of *lettres de cachet* |
| | Aug 4 | The nobles give up their feudal privileges and the great gesture leads to the Declaration of the Rights of Man |
| 1792 | April 20 | The King, much against his will, declares war on his brother-in-law of Austria, who forms the first coalition against revolutionary France |
| | Sept 22 | The allies, who had been on French soil for some weeks, are defeated at Valmy and the republic is proclaimed |
| 1793 | Jan 21 | The trial of Louis XVI for treason ends with his execution |
| 1794 | July 28 | The Terror, which may be said to have begun with the fall of the moderate party, the Gironde (June 2, 1793), ends with the execution of Robespierre, in August the government is reorganized and the liquidation of the Revolution taken in hand |
| 1795 | June 10 | The Dauphin, Louis XVII, dies (probably) |
| 1796 | Nov 3 | A new government succeeds to the many liabilities and the few assets of the Revolution the Directory, consisting of five venal, corrupt, but fairly shrewd men—shrewd because it appoints servants like Talleyrand In the meantime Bonaparte wages war with Austria in Italy |
| 1797 | | Bonaparte without authority from the Directory concludes the peace of Campo Formio and is thereupon appointed to command the force intended to invade |
| 1798 | | England, but instead decides to baffle the hereditary foe by striking where he least expects—Egypt, perhaps India |
| 1799 | | Bonaparte leaves Egypt, where there is no glory, and lands in France, which sadly needs him He ousts the Directory and substitutes the consular government, of which he is |

| | | |
|---|---|---|
| | | of course the First Consul, first for ten years, then (May, 1802) for life |
| 1801 | February | The war on the Continent is temporarily ended |
| | July | Bonaparte negotiates the Concordat with the Vatican |
| 1802 | March | Peace at last with England |
| 1803 | May | Bonaparte renews the war with England |
| 1804 | March | The Napoleonic Civil Code (which perhaps should be the Cambacérès Code) is published |
| | May | Bonaparte becomes Napoleon I and is crowned by the Pope |
| 1808 | | The University of France is created |
| 1810 | | Having divorced Josephine, Napoleon marries Marie Louise, Archduchess of Austria, and a year later "Napoleon II," King of Rome, is born |
| 1814 | March | The allies enter Paris, restore the Bourbons (Louis XVIII), and exile Napoleon to the islet of Elba, off the coast of Tuscany |
| 1815 | March | The "King of Elba" escapes and so does Louis XVIII The "hundred days" precede Waterloo and Napoleon's second abdication (June) |
| | July | Louis XVIII is restored once more |
| 1821 | May 4 | Napoleon I dies |
| 1824 | | Louis XVIII dies |
| 1830 | | Charles X, last of the Bourbons, abdicates in favor of his grandson the Comte de Chambord, and the first and the last of the Orléans dynasty, Louis Philippe, is called to be King of the French |
| 1832 | | "Napoleon II" dies in Vienna |
| 1839-1847 | | Algeria is conquered and pacified |
| 1848 | Feb 24 | Louis Philippe abdicates in favor of his grandson the Comte de Paris, and the republic is proclaimed |
| | December | Prince Louis Napoleon is elected President |
| 1851 | Dec 2 | The Prince-President asks the people to entrust him with the task of revising the constitution, which turns out to be the type giving the executive greatly increased power |
| 1852 | Dec 2 | Napoleon III proclaimed Emperor |
| 1870 | July | Napoleon declares war on the North German Confederation (as Bismarck wished him to do) |
| | Sept 3 | On the defeat of Sedan the empire is supplanted by the republic |
| 1873 | | Napoleon III dies in England, ("Napoleon IV" in 1879) |

THE "FOUR CRISES" OF THE REPUBLIC

| | |
|---|---|
| 1886-1889 | General Boulanger dreams of overthrowing the republic and substituting a military dictatorship, but finally loses his nerve |
| 1894 | A number of deputies and other prominent men are involved in the exposure of grave financial scandals in connection with the Panama Canal Company |
| | Dreyfus is convicted of treason, 1899, tried a second time and again convicted, 1906, the verdict is annulled |
| 1905 | The National Assembly votes the law abrogating the Concordat of 1801 |
| 1919-1924 | France is governed by a "national bloc," a middle-of-the-road group, less anticlerical than its predecessors |
| 1924-1925 | France is governed by Herriot's left bloc |
| 1926-1929 | A ministry of "national union" under Poincaré is formed |
| 1932-1934 | The left bloc is again in power |
| 1934 | An epochal year, which can be stated as marking the beginning of the end of the republic Extremists, both royalist and Communist, precipitate a series of street riots which come close to overturning the government Doumergue heads a coalition ministry à la Poincaré—but without the latter's force |
| 1936-1937 | Blum heads a popular front ministry |
| 1938 | The Radical Socialists form a coalition with the center and the right to form a ministry under Daladier |
| 1939 Sept 3 | War |
| Sept 26 | The Communist party is dissolved |
| 1940 June 22 | The armistice with Germany is signed |
| July 1 | The government is established at Vichy |
| July 11 | Following a meeting of the rump National Assembly, Pétain is proclaimed Chief of State |
| 1944 Aug 18-25 | Paris is liberated |
| Sept 9 | De Gaulle forms a ministry |
| 1945 April 29 | Municipal elections are held—the first popular election since 1936 |
| 1946 Dec 24 | The Fourth Republic comes legally into being—the day on which the Council of the Republic opened its first session |

### The Governments Since Liberation

Charles De Gaulle, President of the provisional government, September 10, 1944-January 22, 1946 The legislative body was called the Consultative Assembly Established in Algiers in September, 1943, it was charged "with furnishing an expression, as large as the present circumstances will permit, of national opinion" It included 148 representatives of metropolitan (continental) France, 28 representatives of Corsica, and of the Resistance outside France proper, 60 representatives of the previous parliamentary assemblies, 12 representatives of the overseas territories The composition of this body was determined by the Committee on National Liberation, formed in June, 1943, in Algiers, under the joint presidency of Generals De Gaulle and Giraud, in November, 1943, it was reorganized and Giraud was given a purely military position In October, 1945, the Consultative Assembly gave way to a popularly elected Constituent Assembly, to govern the country until the constitution which it was charged to draw up should come into force When the constitution first presented by it was rejected (May, 1946), the Assembly was replaced by a second Constituent Assembly, which in September adopted a second draft of a constitution, and this, being submitted to the people in October, was adopted

Félix Gouin (Soc ), President of the provisional government, January 26, 1946-June 9, 1946

Georges Bidault (M R P ), President of the provisional government, June 24, 1946-November 28, 1946

Léon Blum (Soc ), President of the provisional government, December 16, 1946-January 16, 1947

Vincent Auriol (Soc ), elected President of the republic, January 16, 1947

Paul Ramadier (Soc ), president of the Council of Ministers, January 22, 1947-November 19, 1947

Robert Schuman (M R P ), November 24, 1947-July 20, 1948

André Marie (Rad Soc ), July 27, 1948-August 27, 1948

Robert Schuman (M R P ), September 5-7, 1948

Henri Queuille (Rad Soc ), September 10, 1948-October 5, 1949

Georges Bidault (M R P ), October 28, 1949

### Identification of Those Mentioned But Briefly in the Text

Louis Blanc (1811-1882) A Socialist of advanced and humanitarian ideas, he contributed to the fall of the July monarchy (1830) and was a member of the provisional government which established the Second Republic in 1848

Léon Blum (1872-1950) Socialist leader, contributor to many papers and reviews, author of books on moral and sociological problems Deputy, 1919-1928, 1932-1940 Prime Minister (at the head of the popular front), 1936-1937, 1938, 1946-1947

Georges Bonnet (1889- ) Deputy, 1924-1940 Ambassador to the United States, 1937 Minister of Finance, 1937-1938, of Foreign Affairs, 1938-1939, of Justice, 1939-1940 Minister of State, 1941

Georges Boulanger (1837-1891) A general, with a creditable war record in Africa and elsewhere, he entered politics and swept to popularity Minister of War, 1886 Elected deputy by six constituencies, 1888, by Paris, 1889 Threatened a coup d'état but at the last moment lost his nerve and fled, committing suicide in Brussels in 1891

Savorgnan de Brazza (1852-1905), an explorer and colonizer to whom France owes the peaceful acquisition of the greater part of the Congo basin

Aristide Briand (1862-1932), eleven times Prime Minister and generally Foreign Minister, in which capacity he showed great suppleness and cleverness A convinced internationalist and a "good European," he dreamed dreams and saw visions, though an old man, of a United States of Europe

L E Cavaignac (1802-1857), as a general, was called upon to put down the uprising of June, 1848, which he did with great severity, and when he ran for the presidency in December against Louis Napoleon was badly beaten

Georges Clemenceau (1841-1929) graduated as Doctor of Medicine, 1869, after having spent several years in the United States as journalist and teacher Deputy, 1876-1893 Founded, 1881, the radical newspaper *La Justice*, 1898, was the principal collaborator of *L'Aurore*, where he vigorously campaigned for the revision of the Dreyfus verdict Senator, 1902-1906, Prime Minister, 1906-1909, 1917-1920 "Père la Victoire", "he deserves well of the fatherland"

Jean Colbert (1619-1683), controller general of finances in 1664, carried further Richelieu's policy instead of paying dearly for imports from other countries, France should make her own cloth, press her own wine, manufacture goods for export, and thus "draw money from other countries" He considered naval power and colonial empire necessary features of this economic program, which came to be known as Colbertism, or, more generally, mercantilism

Emile Combes (1835-1921) Minister of Education, 1895, anticlerical Prime Minister 1902-05

Edouard Daladier (1884- ) Professor of history Radical Socialist leader Prime Minister, 1933-1934, 1938-1940

François Darlan (1881-1942) Chief of the Naval General Staff 1936-1940, Pétain's "Admiral of the Fleet," vice-president of the Council, Foreign Minister, Minister of the Navy High Commissioner for North Africa from November, 1942, until his assassination on Christmas Day Whether his conversion to the side of the Allies was due to sincere conviction or to a feeling that after the landings in North Africa they would win the war has received tremendous discussion, what is not arguable is his constant anglophobia and general shiftiness

Théophile Delcassé (1852-1923) Minister of Foreign Affairs, 1898-1905, and the chief architect of the Franco-British *entente cordiale*, which proved to amount to an alliance, though not technically

Alfred Dreyfus (1859-1935) A captain, he was arrested in 1894 on a charge of treason, the sentence being finally annulled in 1906 The victory of the truth in the Dreyfus affair was the victory of the republic the beginning of a new era, of the real republic—the republic socialistic, pacific, open to reforms

Louis Faidherbe (1818-1889) A general, organizer of the colony of Senegal, he commanded the Army of the North in 1870 and was one of the few officers who distinguished themselves

P E Flandin (1889- ) Prime Minister, 1934-1935, Minister of Foreign Affairs, 1936 Pro-Munich Vichy Minister of Foreign Affairs, 1940-1941

Léon Gambetta (1838-1882) Proclaimed the republic in September, 1870 Member of the government of national defense, 1870-1871, president of the Chamber of Deputies, 1879, Prime Minister, 1881

Charles de Gaulle (1890- ) Wounded in 1914, prisoner of war, 1916 Major, 1927, lieutenant colonel, 1933, colonel, 1937, commanding a tank regiment at Metz Tried to convince the government of the necessity of speedily mechanizing the army Undersecretary for defense, May, 1940 Commander in Chief, Fighting French, 1940-1944

Edouard Herriot (1872- ) Mayor of Lyon, 1905-1941, 1945- President, Chamber of Deputies, 1936-1940 Prime Minister, 1924-1925, 1926, 1932 President, National Assembly, 1946-

Jean Jaurès (1859-1914) Professor of philosophy Leader of the reformist wing of the Socialist party A pacifist, he had, however, a great belief in the "nation in arms" Deputy, 1885-1889, 1893-1898, 1902-1914 Assassinated by a crazed nationalist on the eve of the war

Jules Jeanneney (1864- ) Senator, 1909-1940, president of the Senate, 1932-1940 Directed the reorganization of the Provisional Consultative Committee, September, 1944

Léon Jouhaux (1879- ) One of the founders of the CGT, 1896, secretary general, 1909-1946, when he resigned to organize the *Force ouvrière* President, Economic Council of the Republic, 1947-

Pierre Laval (1883-1945) Senator, 1926-1940, ministerial posts in three cabinets, Prime Minister, 1931-1932, Minister of Foreign Affairs, 1932, 1934-1935, Prime Minister and Minister of Foreign Affairs, 1935-1936 Vice-president of Pétain's cabinet, June-December, 1940 Chief of the government, Minister of Foreign Affairs, 1942-1944 Fled on the liberation of Paris but was captured by American troops and returned to France, where he was tried and executed in October, 1945

Louis XVIII (1755-1824), brother of Louis XVI "Succeeded" the boy

King called Louis XVII on the latter's supposed death in 1795 Reigned for a year in 1814-1815 and after Napoleon's return from Elba, followed by Waterloo, reigned again from 1815 to 1824

Hubert Lyautey (1854-1934) Distinguished colonial and military career in Indo-China, Madagascar, and in West and Equatorial Africa In 1912 he completed the organization of Morocco, which he kept for the French during the war, and remained its resident general until 1926 Marshal of France

Patrice MacMahon, Duke of Magenta (1808-1893) He distinguished himself in the Crimean and the Italian wars (in the latter, 1859, receiving his dukedom) Wounded at Sedan, he was taken prisoner by the Germans The second President of the Third Republic, he provoked the ministerial crisis of 1877 and resigned in 1879

J B Marchand (1863-1934) General and explorer From 1895 to 1898, with 200 men, he traversed the whole width of Africa, from the mouth of the Congo to the Nile at Fashoda, which he occupied and shortly after evacuated on the threat of war with England, Kitchener with a superior force having arrived from Upper Egypt

Charles Maurras (1868- ) Member of the French Academy, author of novels, biographies, histories, belles-lettres Codirector, with Léon Daudet, of the nationalist and royalist paper *Action Française*

Daniel Mayer (1909- ) Secretary of the youth section, Socialist party Distinguished war record, 1939-1940 Reorganized the Socialist party in Marseille, 1940, and published a clandestine paper during the occupation of the "free zone" Deputy to the Consultative and the Constituent Assemblies Minister of Labor in four postwar cabinets

Jules Moch (1893- ) Naval engineer Deputy 1928-1940 Member of Constituent Assembly and National Assembly Minister of Public Works in five postwar cabinets

Henri-Philippe Pétain (1855- ) About to be retired for age as colonel in 1914, he was recalled and rapidly promoted to be brigadier general, major general, army commander, commander of group of armies, commander in chief of French forces (May, 1917) The testimony of Joffre and Foch in their memoirs shows that he was, however, a defeatist, the credit for much of whose successes should go to others Marshal of France, 1918, Minister of War, 1934, ambassador to Spain, 1938-1940, Prime Minister, June, 1940, Chief of State, 1940-1944

Henri Queuille (1884- ) Doctor of Medicine Deputy, 1914-1934, senator, 1934-1940 Minister of Agriculture and Public Health in many cabinets Prime Minister, 1948-1949, 1951

Paul Reynaud (1878- ) Held several ministerial posts, beginning 1930, in right-wing governments Minister of Justice, then Finance, under Daladier, April, 1938-March, 1940, when he became Prime Minister Deported to

Germany, he was liberated in 1945 An Independent Republican, he was Minister of Finance in the Marie cabinet (1948) but in general has been a conservative critic of the government

Robert Schuman (1886- ) Born in Luxembourg Deputy, 1919-1940 Prisoner of war, 1940-1942, escaped and became a leader of the underground Minister of Finance, 1946-1947, Prime Minister, 1947-1948, Minister of Foreign Affairs in the Queuille and Bidault cabinets, 1948-

Emmanuel-Joseph Sieyès (1748-1836) Celebrated as theoretician, he was one of the founders of the Jacobin Club and published a famous brochure on the third estate He was successively member of the Constituent Assembly, of the Convention, of the Council of Five Hundred, of the Directory, and was one of the three Consuls, with Napoleon as the First

Charles-Maurice de Talleyrand-Périgord (1754-1838) Bishop of Autun under the Bourbon monarchy, he threw in his lot with the moderate revolutionists and was president of the National Assembly in 1790, Minister of Foreign Affairs under the Directory, then under the Consulate, and finally under Napoleon Rallying to the Bourbon restoration, he played a brilliant and subtle role at the Congress of Vienna, later at London, to which Louis Philippe named him as ambassador A diplomat without principle, a man without personal honor, an intelligence of great shrewdness

Adolphe Thiers (1787-1877) A historian, writing at great length of the Revolution and empire, he first became a minister in 1832 and was Louis Philippe's Prime Minister in 1836 and again in 1840 A deputy under the Second Empire, he tried to avoid war with Prussia Named Chief of the Executive Power, then President of the republic (1871), he worked ardently for the liberation of the country from Prussian occupation and for the recovery of her prestige and power A coalition of monarchists and conservative republicans brought about his resignation in 1873

René Waldeck-Rousseau (1846-1904) As Prime Minister from 1899 to 1902 he dealt with the Dreyfus affair and with the preliminaries of the law abrogating the Concordat between church and state

Maxime Weygand (1867- ) Chief of staff to Foch, 1914-1923, chief of the general staff, 1930 Brought from Syria, where he was commanding officer, in the spring of 1940, he was named commander in chief and after the fall of France remained as Minister of National Defense until September, 1940 Delegate general to North Africa, 1940-1941 He favored the armistice of June, 1940, but seems to have regained some of his old popularity

# Bibliography

This is obviously not intended to be an exhaustive reading list And the titles mentioned here are considerably fewer than would have been the case if the footnotes had not served as partial bibliography Specific subjects, such as the legal system, church and state, the colonies, and others, are covered in the suggestions made at the ends of chapters It is assumed—or hoped—that many of those who will use this book have a reading knowledge of French Since the author has drawn at least as much on French sources as on English and American, he would wish that some of his readers would feel inclined to explore further the byways—as well as the highways—down which he has tried to lead them partway, these byways lie in France and not in America, and to scan the signposts and hence recognize the distance which separates them from the *routes nationales*, some slight knowledge of a language which is easier to read than to speak is surely desirable

Whether or not it be a recommendation, it should be noted that no book or monograph is mentioned in this list, or in the footnotes, that is not familiar to the author, the bibliography is not padded to make it lengthy or impressive

### Preliminary

Andre Siegfried, *France A Study in Nationality*, 1930, is especially good on the French character and the psychology of French politics

Charles Seignobos, *The Evolution of the French People*, 1932, is an adaptation of his *Histoire Sincere de la Nation Française* His purpose is to describe as briefly as possible the social structure as well as the political organization of the nation as a whole, he considers that too little attention has been paid by many historians in the past to the life of the ordinary people and that too much reliance has been attached to material which represented only the activities of the privileged classes

Albert Guerard, *France a Short History*, 1946, is stimulating and subtle, but it is doubtful service to recommend to any a short history of a country which can stand an attempt at simplification less well than most The same author's *The France of Tomorrow*, Cambridge, Mass 1942, is now seen to have been an accurate as well as interesting bit of prophecy But, despite its out-of-dateness, it is more than that, it is a liberal's interpretation of how the France of tomorrow has been molded by the France of yesterday

André Maurois, *The Miracle of France* (New York, 1949), tells the story of the evolution of French civilization from its beginnings to modern times While somewhat weak on the political and economic dynamics which have led France to its present condition, the book is strong in biographical material, local color, and urbane wit

J P T Bury, *France 1814-1940* (Philadelphia, 1949), is a careful, straightforward, unpretentious history in brief space, it includes maps and the texts of all the constitutions during the period under review

Jacques Bainville's *Histoire de France*, 1933 (translated), is for those who want a conservative view Bainville (1879-1936) was a member of the French Academy, which takes a dim view of innovators and radicals in literature as in all things else To be mentioned also is the same author's *Napoleon*, 1933, probably the biography, certainly the short biography, of Napoleon (in French, only 592 pages) which has had in recent years the greatest popularity among both scholars and the general public in France and in England and America Its thesis, which carries further the main idea of Albert Sorel in his *Europe and the French Revolution*, is that Napoleon was committed to an impossible task, not of his own choosing

J M Thompson, *The French Revolution*, 1943, is by far the best treatment in one volume, although for some it may presuppose too great a knowledge of the period For those without such knowledge, recommended are E D Bradby, *Short History of the French Revolution*, 1925, Louis Gottschalk, *Era of the French Revolution*, 1929, Leo Gershoy, *French Revolution and Napoleon*, 1933

J Holland Rose, *Napoleon*, many editions (the first was 1901), remains, despite tremendous competition, the best biography in English H A L Fisher, *Napoleon*, 1913, condenses into 256 pages what Louis Madelin, for instance, is now writing in a biography to be completed in fifteen volumes

### The Third Republic and After

D W Brogan, *France Under the Republic*, 1940, takes the political story up to 1939 The month of France's military defeat gave us a truly great book in which the Third Republic still lives on, with all its mistakes and all the pettiness of its citizens, but also with all its heroic greatness, its human promise, its fundamental decency

R W Hale, *Democratic France*, 1941, covers the same ground as the preceding but, though shorter, includes some social history that Brogan leaves out It is written in a sprightly, readable style

F H Brabant, *The Beginning of the Third Republic in France*, 1940, is a history of the National Assembly from February to September, 1871, it is a thoroughly documented study of a parliamentary assembly and not a history of France This accounts for the rather tenuous treatment of such subjects as the peace and the Commune, which is described as seen from Versailles

F L Schuman, *War and Diplomacy in the French Republic*, 1931, is an inquiry into political motivations and the control of foreign policy

In French, on the early years of the republic Joseph du Bourg, *Les Entrevues des Princes à Frohsdorf*, 1910, describes the efforts of the two royalist branches to come together, in 1873 and 1883 On Thiers and MacMahon Charles Chesnelong, *Les Derniers Jours de l'Empire et le Gouvernement de M Thiers*, 1932, Robert Dreyfus, *La République de M Thiers*, 1930 Daniel Halevy, *La Fin des Notables*, 1930, has an excellent title its purpose is to study the period 1871-1877 as the last effort of the aristocracy to rule The author regards their failure as inevitable His study is continued in a second work, *La République des Ducs*, 1937 J Lucas-Dubreton, *Le Drapeau Blanc, 1871-1873*, 1932, discusses the royalists' last gasps One of Halevy's "Ducs" is the Duc d'Audiffret-Pasquier, who published his memoirs from 1871 to 1873 in *La Maison de France et l'Assemblee Nationale*, 1938 A convert from republicanism to monarchism was Charles Benoist, who published his *Souvenirs* in three volumes The last volume, covering the years 1902-1933, treats his seventeen years of parliamentary life, his residence as minister to Holland, and his conversion to monarchist principles after forty years of consistent republicanism

W C Buthman, *The Rise of Integral Nationalism in France*, 1939, discusses such nationalist leaders as Déroulede, Barrès, Drumont and his anti-Semitism, and especially Charles Maurras and the *Action Française*

Alexander Werth, *The Twilight of France*, 1942, puts together the best of the three of this author's books on the last years of the republic It has an illuminating introduction by Professor Brogan

On French revolutions in general E L Woodward, *French Revolutions*, 1934, G L Dickinson, *Revolution and Reaction in Modern France*, 1927, Godfrey Elton, *The Revolutionary Idea in France, 1789-1871*, 1923

C A Micaud, *The French Right and Nazi Germany, 1933-1939*, 1943, has as his thesis "In their eyes the rightists' domestic and foreign policy could no longer be separated, victory over Italy, over the rebels in Spain, even over Germany, meant to them a victory of the working classes in France and of Soviet Russia in Europe, and this victory had to be opposed whatever the effect upon national security"

J E Howard, *Parliament and Foreign Policy in France*, 1948, is a study of the origins, nature, and methods of the parliamentary control of foreign policy in France during the Third Republic, with special reference to the period from 1919 to 1939

In French, on this period Albert Thibaudet, *Les Idees Politiques de la France*, 1932

On constitutionalism, political theory, etc Roger Soltau, *French Political Thought in the Nineteenth Century*, 1931, has three objectives first, to show that most thinkers, whatever their school of thought, tend to adhere to a rigidly unitary view of the state, which they would entrust with virtually unlimited powers in the political sphere, however suspicious they may be of its authority in matters economic, secondly, to single out for particular consideration those writers who depart from the standpoint of orthodox sovereignty, and thirdly, to relate political theories to contemporary events W L Middleton, *The French Political System*, 1932, describes clearly and vividly the parliamentary system in actual working A standard English work on comparative government, too little known in this country, is C F Strong, *Modern Political Constitutions*, third revised and enlarged edition, 1949, which is especially valuable for its comparison of the new French and Italian constitutions François Goguel in *La Politique des Partis sous la IIIe Republique*, 1946, discusses the impact of the multi-party system on the social as well as the political history of the country, an extraordinary work of great substance, when one considers that it was written in a Nazi prison

On Vichy, Petainism, and the beginnings of the Fourth Republic, among the enormous mass of literature, mostly apologia, which Frenchmen have been writing since the liberation Paul Reynaud, *La France a Sauve l'Europe*, 2 vols, 1947, carries a title which the book can hardly live up to Volume 2 takes the story from the moment when Reynaud assumed the headship of the government (March 21, 1940) to the armistice but also covers in 200 pages of conclusion an analysis of the motives of the defeatists The best account, by a lieutenant of de Gaulle, of the Fighting French is by Jacques Soustelle, *Envers et Contre Tout De Londres a Alger, 1940-1942*, 1947 Martin du Gard, *La Chronique de Vichy, 1940-1944*, is an objective diary of everyday life Lucien Galimand, *Vive Petain, Vive de Gaulle*, 1948, is by a member of the last Chamber of Deputies who writes a vivid account of life under Pétain and also in occupied France André Mornet, *Quatre Ans à Rayer de Notre Histoire* (*Four Years to Be Stricken Out of Our History*), 1949, is by the prosecutor at the trials of Petain and Laval, he includes as an appendix his summing up at the trial of the former, but he does not give any account of Laval's trial, perhaps because his own conduct was highly reprehensible in its lack of dignity Marc Bloch, author of *L'Etrange Defaite*, 1946 (translated and published as *Strange Defeat*, 1949), was the eminent professor of economic history at the University of Paris, was a resourceful member of the Resistance in Lyon, and, though in his fifties, was caught and executed

by the Gestapo in June, 1944 It is perhaps the most thoughtful, the most temperate, in many ways the most illuminating short account we have of the fall of France

Finally, two books indispensable for the contemporary period David Thomson, *Democracy in France*, 1946, discusses the questions What are the democratic ideals which France derives from her revolutionary tradition? What were the social bases of democratic life and government in the Third Republic? How were republican institutions created and how did they work? How have these ideals and institutions met the challenge of modern civilization? Gordon Wright, *The Reshaping of French Democracy*, 1948, discusses all the aspects of French politics from 1945 through 1947

In February, 1950, a conference was held at Princeton University which was attended by eighty professors interested in problems of modern France Its purpose was to take stock of and appraise work on France currently under way in American universities and to stimulate the further development of French studies in the United States Especially significant papers on contemporary French politics were contributed by L A Minnich, Jr, E W Fox, C A Micaud, R F Byrnes, H W Ehrmann, V R Lorwin, Gordon Wright, Vernon Van Dyke, S H Lytle, W C Baum, and several others The amount of writing being done on French history, politics, and economics surprised even those who have made contemporary France their specialty The twenty-eight papers, under the title of *Modern France*, were published by the Princeton Press in 1951

# PART III

# *The Government of Switzerland*

By JOHN CLARKE ADAMS

# Chapter 23

# The Land and the People

LIKE the duckbilled platypus, Switzerland is an anomaly, and like other anomalies it has an interest to scholars quite beyond its intrinsic importance Students of government and sociology have been trying for centuries to define a state and to distinguish it from other types of social groups, and the example of Switzerland has often given them serious concern because it lacks several of the qualities which, in the popular mind and in the minds of many scholars, seem to be basic elements in the formation of a state Thus although the Swiss lack a common culture, a common language, and a common religion, they form a united nation It appears that they have successfully compensated for these deficiencies by a large overdose of the two great unifying factors they do possess—the one, material geography, and the other, political neutrality—and it is to these two elements, geography and the policy of neutrality, that must be credited in large part the strength of the Swiss state Many distinguished writers in the field of government have not neglected the geographical factor in their treatises In fact several of the greater ones have stressed its importance in the formation of a nation and a culture Aristotle, for instance, was fully aware of the influence of geography, and Montesquieu devotes a large section of his *Esprit des Lois* to an exposition of this thesis, but the extent to which geography can become the determining factor in this development, as evidenced by the example of Switzerland, seems not to have been realized by these men

The territory of Switzerland comprises some 16,000 square miles of land, situated for the most part in the center of the Alps Its area is thus about half that of South Carolina, but its population of more than 4,000,000 is over twice the South Carolina population It is a landlocked country, completely surrounded by five other nations France, Italy, Austria, Liechtenstein, and Germany

Buttressed as it is by rings of high mountains, Switzerland not only has remained isolated from her neighbors but, more important, has been protected from enemy aggression by these same mountains, which served as a discouragement to and a shield against prospective foreign vandals

Switzerland can be divided into four geographical units the Alps, the Jura, the intervening plateau, and Schaffhausen The Alps, high tortuous mountains, pierced by narrow river valleys, cover some 16 percent of the territory and are situated in the center, the south, and the east of the country This is majestic land, with magnificent scenery, but the economic value of much of it is limited to its tourist appeal A few miles apart in this mountain fastness four of Europe's great rivers are born (1) the Rhone, which flows through Valais, enters Lake Leman at the east to issue from the west end at Geneva and to descend through France to the great port of Marseille, (2) the Rhine, which flows northward to Lake Constance, then west cutting off Schaffhausen, and later north through Germany and Holland, (3) the Inn, which flows east through Grigioni to meet the Danube and to traverse the Balkans arriving finally at the Black Sea at Constanta, (4) the Ticino, which flows south to Italy to join the Po and eventually to reach the Adriatic The highest of the Swiss Alps, Monte Rosa, on the Piedmontese frontier, soars to 15,217 feet, and nearby, on the bank of Lago Maggiore, is the lowest point in Switzerland, with an elevation of only 646 feet

To the west lies the Jura, a lower mountain chain Here the highest peak is Mont Tendre, with an altitude of 5500 feet The Jura occupies somewhat over 10 percent of the national territory

Between the Jura and the Alps lies Switzerland's one fertile plateau, the most favored part of the country, both agriculturally and industrially This narrow plateau, usually fifteen to twenty miles wide, extends from Lake Geneva at the southwest to Lake Constance at the northeast It comprises some 30 percent of the national territory and lies at an altitude of from 1000 feet on the north, Jura, side to 6500 feet as it approaches the Alps to the south

The northern canton of Schaffhausen lies quite outside the geographical unity of Switzerland It is a small territory beyond the mountains and to the north of the Rhine, as that river emerges from Lake Constance

Thus despite popular prejudice to the contrary, the territory of Switzerland is not wholly confined within any natural boundaries Besides Schaffhausen there is the case of Grigioni, which is separated from Italy only by an arbitrary line, on the south the boundary between the canton of Ticino and Italy is equally artificial, and the same can be said for the western boundary separating Geneva from France

Nature has been prodigal to Switzerland in making the greater part of the country a natural fortress and in giving it a scenic splendor which has long been a tourist attraction, but in other ways nature has been parsimonious Almost a quarter of the land is considered unproductive, and much of the rest is poor land at best Except for hydroelectric power the natural resources are scanty There is plenty of stone, and salt is to be found, but coal, iron,

and oil are lacking, and there is almost nothing of value which is exportable In spite of these handicaps, however, Switzerland has not remained primarily either an agricultural or a pastoral country Her industrial development, although it has been limited to industries that use dairy products, of which Switzerland has an abundance, or to precision industries, like watchmaking, which require expert workmanship and few raw materials, has been extended until Switzerland has become, after Great Britain and Belgium, the third most industrialized country of Europe with about 45 percent of the working population employed in industry The industrialization of Switzerland has also come about without the "industrial revolution" which usually accompanies the process Since Swiss industry had to depend on hydroelectric power and Swiss capital has not been concentrated in a few hands, industry has tended to grow up in small units near the river banks This practice has prevented the concentration of large masses of workers around industrial areas and the creation of a large proletarian class, instead, Swiss industrial workers have tended to remain among their traditions and if they themselves are not still farmers, their relatives, friends, and neighbors are likely to be [1]

The Swiss people are a mélange of the peoples of the three large nations which surround them The majority, 72 6 percent, of the Swiss speak a German dialect, 20 7 percent speak French, 5 2 percent speak Italian,[2] and 1 1 percent a Romance dialect called Romansh All four of these languages are officially recognized as national languages and are taught in the schools, and the first three are official languages in any of which the citizen has the right to communicate with and be answered by his government Of Switzerland's twenty-two cantons, eighteen are unilingual [3]

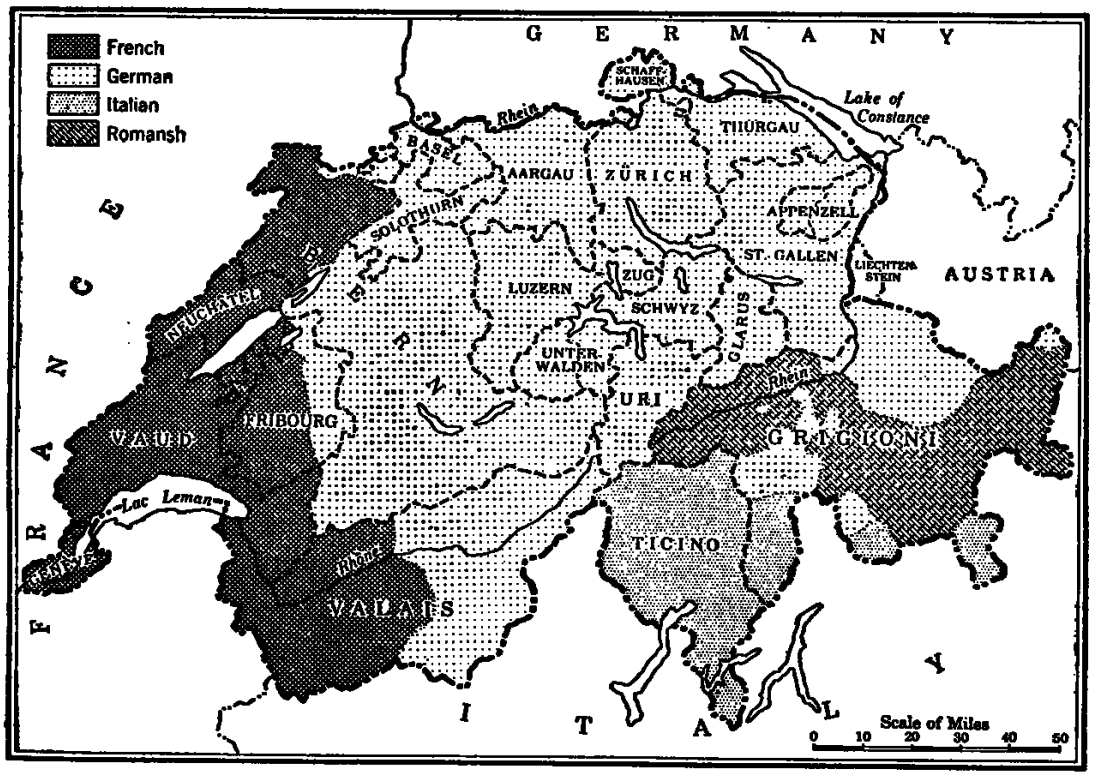
Although it is true that most educated Swiss speak both French and German, the Swiss people as a whole are not able to communicate with their fellow citizens who speak a different language Even in the canton of Vaud, which is predominantly French speaking, only German is spoken in the eastern communes On the other hand, in the Italian-speaking Ticino, French seems to be generally understood In Parliament, before the courts, and in the army, each Swiss speaks his own language

[1] See Max Nef, "L'economia svizzera ieri e oggi," in *Il ponte*, August-September, 1948, pp 767-778

[2] Over 25 percent (61,840) of the Italian-speaking persons in Switzerland are foreign born

[3] In fourteen of these a German dialect is spoken (Zurich, Lucerne, Uri, Schwyz, Unterwalden, Glarus, Zug, Solothurn, Basel, Schaffhausen, Appenzell, St Gallen, Aargau, Thurgau), French is spoken in three (Vaud, Neuchâtel, Geneva) and Italian in one (Ticino) There are three bilingual cantons, in which both French and German are spoken (Bern, Fribourg, Valais) In Bern, the German-speaking element is in the majority, and in Fribourg and Valais the majority speak French There is one trilingual canton, Grigioni, where the native languages are German, Italian, and Romansh

The German spoken in Switzerland differs considerably from proper German. During the periods when German national prestige has been high, the Swiss have tried to minimize these differences and to use a more orthodox German, particularly in writing. At the present time, however, the national dialect has increased in popularity and some German-speaking Swiss today deny that their language is German at all. Others deny there is a single German Swiss dialect and claim each German-speaking canton has its own dialect.[4] The written language of the *Ticinesi* is Italian, but they speak an Italian dialect of their own. French Swiss, on the other hand, differs from ordinary French only in accent.




Languages.

Switzerland is also split into two competing religious groups: Roman Catholics and Protestants. This religious cleavage fortunately cuts across the linguistic differences; otherwise it might have been impossible to hold the nation together. The Protestants, for the most part followers of John Calvin or Zwingli, are in a slight majority, 57.6 percent. Among the strong Protestant cantons are Zurich, Bern, Glarus, Thurgau, Basel, Neuchâtel, Vaud, and Geneva, whereas Lucerne (Luzern), Zug, Unterwalden, Uri, Valais, Ticino, and Fribourg are overwhelmingly Catholics.

[4] Denis de Rougement and Charlotte Muret, *The Heart of Europe* (New York, 1941), pp. 6, 100.

The religious and linguistic ratios have remained relatively stable in Switzerland, in recent times, however, the Roman Catholic religion is showing slight gains, as is the German language [5]

As a result of these linguistic and religious differences as well as of the high mountain barriers which separate canton from canton, the Swiss often appear to have stronger cultural ties with the foreign nation whose language they share than they do with each other This seems particularly true of the French Swiss, who have always maintained close cultural relations with France In certain fields, however, the Swiss have made important cultural contributions which are not merely reflections of their bigger neighbors It was in the southern Alps near the Swiss-Italian border that modern music took one of its first and unique steps forward when the practice of singing and playing in thirds was developed This innovation was to become the basis of modern harmony Previously singing had been in unison, or in hollow-sounding fourths and fifths Also in the political sphere Switzerland has forged her own culture and has created an economy and a democracy far sounder and stabler than that of her neighbors

Swiss politics is founded on the principle of an armed neutrality Although this policy has been rendered feasible by Switzerland's geography, it was not a necessary corollary deriving inevitably from her peculiar geographical position Swiss neutrality was favored by Swiss geography, but it was born of Switzerland's desire for peace and security

During the two recent world conflicts, Switzerland has been surrounded by a world at war and has been virtually cut off from her ordinary international commerce by her warring neighbors Yet in neither instance did any of these neighbors violate her neutrality by entering her country, as twice occurred to Belgium and once to Holland, Norway, and Denmark Neither was she forced as Sweden was to transport foreign troops across her land so that they could defeat popular uprisings in a sister democracy

It is interesting to note that during the last war, when the apparently victorious Germans were putting pressure on the Swiss to declare themselves for the Third Reich, it was the conservatives who held out for an independent and neutral Switzerland In the bitter years of 1940 and 1941 various socialist, communist, and labor groups are reported to have succumbed to much of the Nazi propaganda, but this was not true with the conservative forces [6]

Swiss neutrality is not based on pacifism, it is an armed neutrality The people intend to defend themselves and to make an attack on their independence a costly and unrewarding experience for the enemy The Swiss have an army and compulsory military conscription Traditionally they were great fighters, although their policy of neutrality has given them little opportunity to reaffirm these qualities in recent times To their willingness and determina-

[5] See Tables 1, 2, and 3, pp 463-465

[6] Herbert Luthy, "La Svizzera e il mondo," *Il ponte*, August-September, 1948, p 733

tion to fight if necessary, even against the German armies of Hitler, the manifestos posted in all the public squares of Switzerland during the war bear testimony These manifestos informed the populace that in the case of an enemy invasion any announcement of surrender was to be considered false and therefore of no legal validity In the words of Herbert Luthy

"The assertion that in the case of a German invasion, Switzerland, a country in which every citizen has his own arms in his own home, would have become one of the most dangerous and aggressive zones of resistance in all Europe may sound boastful now that the country has been saved such an ordeal But no one who really knows this country can doubt the truth of the assertion and certainly the Nazis never doubted it" [7]

Swiss neutrality, however, has not been a boon only to Switzerland In recent wars it has also proved useful to the belligerents Neutral Swiss diplomats kept open the consulates of enemy belligerents both east and west of the Rhine, and it was in good part through Switzerland that was channeled that minimum of communications, negotiations, and trade indulged in even by the bitterest of antagonists

The physical factor, geography, and the political platform, neutrality, do much to overcome such handicaps faced by the Swiss as lack of a common language and religion In themselves, however, they could not have welded a nation out of so heterogeneous a group The tradition of a common history and the struggle for a common ideal were also necessary That history and that ideal, democracy, will be investigated in the following chapter

[7] *Ibid*, pp 733-734.

Chapter 24

# The Historical Background of the Swiss Federation

THE present Swiss federation consists of twenty-two cantons, three of which are divided into half-cantons There are thus twenty-five quasi-independent units of government which are united in much the same way as the forty-eight states of the United States of America

The history of Switzerland is the history of the formation and development of these cantons In the international field it is primarily the history of their emancipation from foreign control In the national field it is the history of the mutual compromises and the gradually increasing tolerance which has made it possible for peoples of such strong historical, cultural, linguistic, and religious divergences to form a united nation

The earliest known inhabitants of Switzerland were various Celtic tribes, of which the Rhaetians to the east and the Helvetians in the plateau are the best known In 58 B C Julius Caesar began the conquest of the Helvetians For four centuries thereafter Rome occupied the country and imposed its culture on the native tribes, civilizing and at the same time debilitating them so that by 260 A D, when the first wave of Germans reached northeastern Switzerland, the Celto-Roman inhabitants did not succeed in repelling them In the ensuing centuries successive waves of Germans pushed into Switzerland, the Alamanni coming down from the northeast, and the Burgundians entering from Savoy and occupying what is now French Switzerland It is from these stocks, plus the Italians in the Ticino and Grigioni, that the present Swiss people and culture are largely derived

The French and Italians, however, have participated in the formation of Switzerland only in the more recent period The origins of present-day Switzerland are found in the Germanic forest cantons, peopled by the Alamanni The Alamannian government was typical of the Teutonic tribes The kingdoms were divided into counties, over each of which a count ruled He was often chosen by a popular assembly from among the available noblemen

In the fifth century the country was conquered by the Frankish dynasty of Merovingians, who with their successors the Carolingians held the land for over 300 years It was during this period that a party of Irish monks arrived and succeeded in Christianizing most of the people In the ninth century the country passed to the German Holy Roman Empire and began to take part in the long and bloody duel between Emperor and Pope

Outside Switzerland freedom from feudal overlords was gained only after walled cities had been built and the bourgeois became able to protect themselves The Swiss mountains, however, gave more protection than the best-walled cities because in their naturally walled communities siege was virtually impossible, and rather than submit free men could retreat to the wooded mountains This fact, along with the fact that because of their relative poverty the Swiss communities offered less attraction to the marauders, made it possible for the Swiss forest cantons to free themselves from the feudal yoke at an early date

The first touch of legal freedom bestowed on the Swiss was granted in 1231 in the form of a charter to the forest canton of Uri establishing its immediate dependence on imperial authority, thus freeing it from allegiance to all lesser overlords A similar charter was granted the neighboring canton of Schwyz nine years later by the Emperor Frederick II It appears, however, there was method in this imperial generosity as the Emperors hoped by assuming the immediate overlordship of these cantons to assure for themselves control of the newly opened St Gotthard pass

Even if fortuitous circumstances played a part in granting these two forest cantons their first taste of independence from rapacious feudal barons, there is no doubt that the Swiss soon became aware of its advantages and were determined to hold on to what they had gained When, in 1273, Rudolph, a weakling Hapsburg, ascended the imperial throne, the Swiss became alarmed, for the Hapsburgs were the robber barons of nearby Aargau, and they owned lands within these free communities No decisive action was taken by either side during Rudolph's life, but on his death, in 1291, out of fear of his cruel and zealous son, Albrecht, a perpetual league was formed among Uri, Schwyz, and Unterwalden to defend themselves and each other against foreign aggressors It is from the formation of this league that the Swiss date the beginning of their present federation

The perpetual league of 1291 was primarily a defensive alliance, it was not a call to revolution The signatories recognized all their feudal obligations which had a legal basis The purpose of the league was to preserve the privileges the communities had already won, rather than to seek new ones

The fortunes of the league were not always felicitous, and its victories were mingled with defeats Still, it slowly gained in strength and cohesion It is in the early years of the league that the exploits of Wilhelm Tell are

laid Although there is no reliable evidence to support the story, its spirit is true and the Swiss have long been worthy of its symbolism

In the early fourteenth century Henry VII, Count of Luxembourg, confirmed the charters of Uri and Schwyz, and granted a similar one to Unterwalden, but on his death in 1313 the Hapsburgs again felt strong enough to reassert themselves and Duke Leopold two years later assembled 15,000 men and marched on Schwyz, determined to punish the canton for its refusal to recognize his overlordship At the pass of Morgarten 1300 Swiss peasants stopped the invaders by hurling rocks and trees down upon them from the overhanging crags, then charging them and driving them into the lake This valorous fight of free men against oppression further cemented the unity of the forest cantons, which was no longer a league of words but one of heroic deeds as well

Later in the same year, 1315, the three cantons signed the pact of Brunnen, which was the first Swiss constitution

During the fourteenth century the Swiss federation grew by the admission of five additional cantons the city-states Lucerne (1332), Zurich (1351), and Bern (1353), and the additional forest cantons of Zug and Glarus (1352) With the advent of Lucerne, the league was greatly strengthened, as this city situated on Lake Lucerne consolidated the federation and gave it a center of considerable importance The admission of Zurich, a free imperial city, was even more important, and the admissions were crowned two years later with that of another powerful city Bern

A peculiar feature of the new admissions was that the five new cantons were allied with the three original cantons, but not with each other, unless they made special agreements therefor Lucerne and Zug, for instance, were allied to Zurich and to each other but not to Glarus, and Zurich was allied to all the cantons except Bern, which later was allied only with the original forest cantons of Uri, Schwyz, and Unterwalden

The additional strength and cohesion gained by the addition of the wealthier cantons was not enough to assure Switzerland's peace and security, and it was necessary again and again to resort to arms In 1386 at Sempach and in 1388 at Nafels, the Swiss defeated the Austrians and thus strengthened the international position of the confederation In the same period, with the *Pfaffenbrief* (1370) and the Convenant of Sempach (1393), they strengthened, modernized, and democratized their internal position

The *Pfaffenbrief*, so called because of the limitations it put on the ecclesiastical courts, marked an important step forward also in the provision that a foreigner who wished to reside within any of the cantons would be obliged to take an oath to the confederation and not to the particular canton within which he was living

The Covenant of Sempach was concerned mainly with the rules of war, and military discipline In it the Swiss also laid down general rules of booty,

plunder, and prizes Among other stipulations were ones forbidding the razing of churches and monasteries, unless they were occupied by enemies or enemy goods Women also were to be spared unless they were engaged in actual fighting or by their cries were aiding the enemy Thus these medieval Germans showed themselves superior to the modern members of the master race, who in their frenzy to gratify their lust for power had no mind for mercy

After the military successes of Sempach and Nafels the Swiss turned from the defensive to the offensive and embarked upon wars for territorial aggrandizement In 1403 they took Ticino from the Visconti family, the Dukes of Milan, and in 1415 they took Aargau from Austria These new acquisitions, however, did not receive the rights of free cantons but were held in a state of vassalage

In 1476 and 1477, backed with French gold, the Swiss inflicted three decisive defeats on the forces of Charles the Bold of Burgundy and thus ended forever the dreams of the proud noble who had hoped to establish a buffer state down the west Rhine separating France and Germany Instead Charles found his death in the last of the battles, at Nancy, and Burgundy today is famous primarily for its wines

This heroic achievement saved the Swiss for a quarter-century, but in 1499, when the Emperor Maximilian sought to reassert his imperial control over the confederation, the Swabian war commenced, and abruptly ended after four battles convinced the Emperor that the Swiss would have none of his pretensions

At this point Swiss military prestige was at its apogee Not content with these successes, however, the Swiss immediately entered the Italian picture in the struggle for Milan between the French Kings and the Sforza, Milan's reigning ducal family Here they were fighting as pure mercenaries At first they were successful, but later, and notably at Marignano (1515), La Bicocca (1522), and Pavia (1525), they were on the losing side of virtual routs, first fighting for the Milanese, and later for the French These defeats, coupled with the fact that the soldiers had not been paid, reduced the eagerness of the Swiss soldier to fight other people's battles for them This period thus marked an end to the Swiss wars of conquest

The Swiss confederation continued to grow for a half-century more, however After an inner rift that threatened to disband the union, Fribourg and Solothurn had been admitted in 1481 Twenty years later the cities of Basel and Schaffhausen were added, and in 1513 the canton of Appenzell joined the confederation Thereafter no new canton was admitted or created until the advent of Napoleon

In this first period of the Swiss confederacy there was no single pattern of government which was applied to all the cantons The three original forest cantons, as well as Zug, Glarus, and Appenzell, were democratic

societies in which the citizens were substantially equal both economically and politically Here democracy was not even representative, but was exercised through the *Landsgemeinde* (Italian *arengo*, Romansh *cumin*), the assembly of all adult males, a system which is still used in Unterwalden, Glarus, and Appenzell and in some of the districts of German, Italian, and Romansh Switzerland These forest cantons did not always see eye to eye with the city cantons which were later added to the confederation The city cantons, in turn, were of two types Zurich, Basel, and Schaffhausen were bourgeois oligarchies, where the power was in the hands of the wealthy merchants, Bern, Lucerne, Fribourg, and Solothurn were conservative aristocracies, where the political power was vested in certain families and passed from father to son [1]

Not only did the status of the citizen vis-à-vis the state differ from canton to canton, the cantons themselves enjoyed varying rights within the confederacy Only the above-mentioned thirteen cantons had full rights Some others like St Gallen, although only allied to the confederation, were given a vote in its councils, while Neuchâtel, for instance, was an ally under the Count of Neuchâtel but without a vote Beneath the allied communities came the conquered territories, some of which belonged to the individual cantons These territories were completely deprived of political power and in many cases had little corporate unity at the time they were annexed Among the federal possessions were Ticino and Aargau, and Vaud, conquered by Bern in 1536, was an example of a territory belonging to a single canton

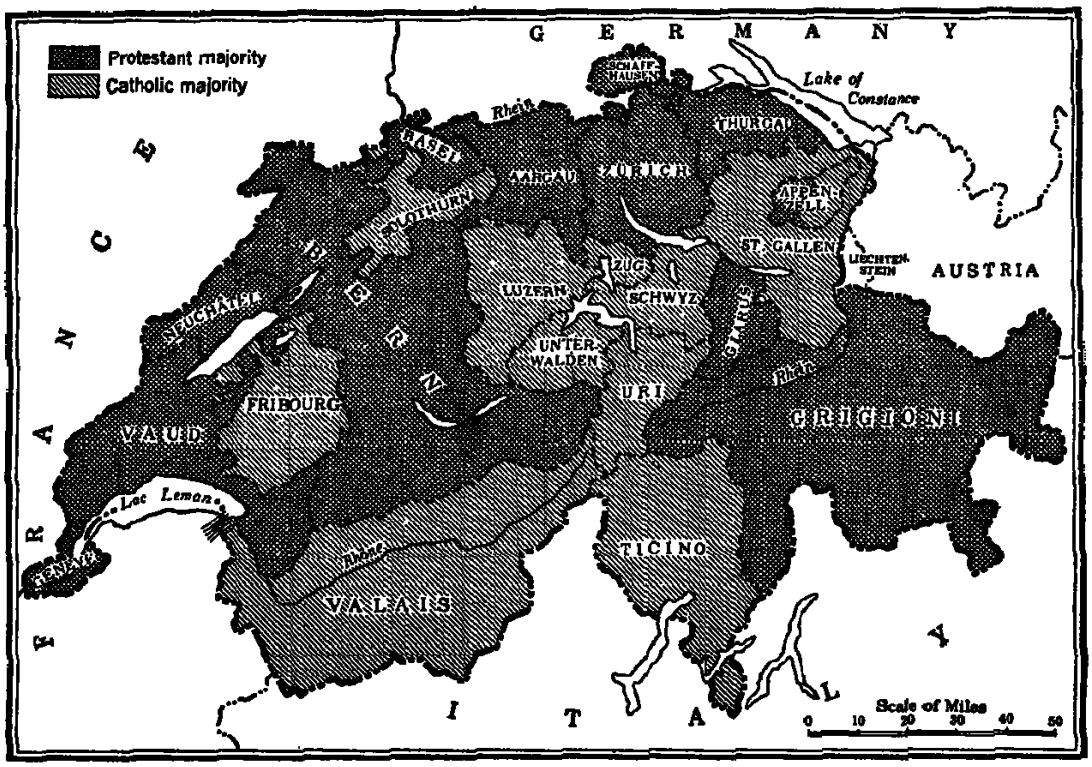
By the middle of the fifteenth century the warlike propensities of the Swiss threatened the breakup of the union For a long time there had been antagonism between the democratic forest cantons and the wealthy city cantons, and with the passing of the years these differences instead of diminishing became accentuated as the wealth of the cities increased and became concentrated in fewer hands

Internal dissension came to a head again after the successful battles against Charles the Bold The immediate cause of the rift was the division of the spoils of the Burgundian war, but its roots of course were older and deeper At the last moment, however, as the delegates were about to break up, peace was restored by a hermit, Nicholas Von der Flue, a great hero of the Swiss Catholics This peace was formalized in the agreement of Stantz (1481) which reaffirmed the previous pacts It was immediately after these agreements had been reached that Fribourg and Soluthurn were admitted to the confederacy

[1] "In the old Catholic regions such as the cantons of Lucerne and Fribourg an aristocracy of feudal origin still rules in fact, though not in law, over the agricultural villages which cluster about its castles" De Rougemont and Muret, *The Heart of Europe* (New York, 1941), pp 6-7

Their admission had long been championed by the city cantons and opposed by the forest cantons.

With the advent of the Reformation civil strife within Switzerland became more bitter than ever, and it is a wonder the confederation survived. The Peace of Cappel, however, which followed the defeat of Protestant Zurich in 1531 at the hands of the Catholics of the forest cantons established the principle that each canton could maintain its own religion. Thereafter for some time Catholics and Protestants held separate diets. Religious persecution within the cantons was often severe; the canton of Appenzell, where




Religions.

the population was divided on the religious issue, split in two in 1597, thus forming the first pair of half-cantons of Appenzell Interior Rhodes and Appenzell Exterior Rhodes, the first of which, composed of the inner districts, is staunchly Catholic and the latter proudly Protestant.

The last half of the sixteenth century and the seventeenth brought little change to Switzerland. The period of territorial aggrandizement was over, and the internecine religious strife prevented the confederation from making progress in its internal affairs. It was in the middle of this period, however, in 1648 at the Peace of Westphalia, that the great powers first gave formal recognition to Swiss independence.

The next phase in the development of modern Switzerland commenced with the French invasions in 1798 and the consequent creation of the Helvetic

Republic, along French lines Many of the Swiss cantons put up little if any resistance to this invasion and only Bern can boast of a sizable victory over the French troops, a victory whose practical advantages were quickly canceled by a subsequent defeat and capitulation Some resistance was also shown by the forest cantons of Schwyz and Glarus, but without avail

Before the year was out the French had imposed on the people a new constitution, written in Paris This constitution was a product of the age of reason and of the French Revolution It established a unified central government and divided the territory of Switzerland for purposes of local government into centrally controlled units with little local autonomy In some cases the units were territorially the equivalents of the former independent, loosely federated cantons, but where feasible an attempt was made, similar to that made in France itself with the creation of the *département* and the abolition of the province, to cut across the historical boundaries in an effort to reduce local loyalties In Switzerland, of course, the frequent mountain ranges often made such redistricting impractical, but the French were careful to cut up Bern, the canton which had offered them the greatest resistance, into four independent cantons, and Schwyz and Glarus were punished by the loss of their independence and their inclusion in the newly created combined provinces of respectively, Waldstatten and Linth

In spite of the good intentions of the French this new republic proved a Procrustean bed for the Swiss, so little did it conform to their traditions and desires They suffered five years of French tyranny, during which they were subjected to plunder and massacre

The immense state treasure amassed by the aristocratic government of Bern, generally considered the most competent and public-spirited of the nondemocratic cantonal governments, was appropriated by the French, and at Stantz in 1798 men, women, and children were slain To add to their miseries under the French, their land became the battleground for the Franco-Austrian war

After five years' experience had convinced the French that the constitution they had imposed was essentially inoperative, Napoleon, then Consul, sent General Ney to Switzerland to pacify the country and on completion of the general's mission called a conference of Swiss leaders in Paris to form a new constitution This new constitution, the Act of Mediation, which was a compromise between the old Swiss confederation and the unitary constitution of the Helvetian Republic, reestablished the former thirteen cantons and restored to them most of their former rights, even to the privileges enjoyed by the ruling classes of the city cantons From the former allied and subject territories it created six new cantons, St Gallen, Aargau, Thurgau, Grigioni, Vaud, and Ticino St Gallen was formed of the city and abbey of that name and a half-dozen surrounding districts Grigioni was composed of most of the territory of the three former Rhaetian unions Aargau was

formed in part from territory taken from Austria Vaud was created out of territory formerly belonging to Bern and Fribourg Ticino included most of the Italian-speaking territory taken almost three hundred years previously from Milan

The Act of Mediation maintained peace and tranquillity in Switzerland until virtually the end of the Napoleonic period After Napoleon's defeat at Leipzig, however, the Swiss felt free to abolish it

Switzerland was again divided into two factions over the new constitution it was to form Bern led the reactionary party and wished to reestablish the old confederation of the thirteen cantons and return the newly created cantons to their former inferior positions Zurich became the champion of the new rights, and when the victors refused to treat with any Swiss government not representative of all nineteen cantons, the reactionary party had to bow to foreign pressure

At the Congress of Vienna in the following year Switzerland's present territorial limits were finally established with the addition of Valais, Geneva, and Neuchâtel as cantons

During the nineteenth century the Swiss made continued progress toward the establishment of a unified and democratic state In the wake of the French revolution of 1830, popular revolts or threats of popular revolts forced many of the reactionary cantons drastically to alter their constitutions The salutary influence of the 1830 revolution, however, was counteracted by the increasingly bitter struggle between the federalist cantons and the states'-rights cantons By 1845 this struggle led to the formation of a Sonderbund, a state within a state, composed of seven of the Catholic cantons Lucerne, Unterwalden, Schwyz, Uri, Zug, Valais, and Fribourg Two years later civil war broke out For a time it seemed as if this war might lead to an international religious struggle, with France, Austria, and Prussia supporting the Catholics and England supporting the Protestants, thus turning a civil war into an international conflict much as occurred recently in Spain Lord Palmerston, however, succeeded in preventing the pro-Catholic powers from intervening, and the Swiss Protestants after a nineteen-day campaign defeated the Catholics and restored peace In the following year, 1848, the reactionary powers of Europe had sufficient to occupy them at home and they never got around again to interfering with the internal policies of Switzerland Since that time Roman Catholics and Protestants in Switzerland have lived together in peace, in spite of the fact that the Protestant majority has considered it expedient to keep in the constitution some legislation distasteful to the Catholics Thus, though Jesuits are allowed to travel in Switzerland, no Jesuit organization may organize or work in the country (Art 51), and while the existing convents (forty-five) and monasteries (thirty-five) may continue to exist, no new ones may be established on Swiss territory (Art 52)

This, in brief, is the history which has played so important a part in creating

a united and democratic Switzerland It is essentially the history of free men, men who were among the first in Europe to break the rigid bonds of feudalism and to unite voluntarily for their mutual benefit Neither the unity nor the democracy of Switzerland has been superimposed Switzerland was born of the brotherhood in arms of her freemen fighting feudal tyranny It was welded together by the blood shed for her cause Switzerland will die when this ideal of freedom and mutual aid no longer stirs the hearts of the people who inhabit her rugged and inspiring mountains

## Chapter 25

# The Constitution

THE SWISS written constitution of 1848 is a venerable document which recently celebrated its hundredth anniversary It is one of the oldest written constitutions of continental Europe Its basic achievement was to transform Switzerland from a confederation of states into a federated state The pact of 1815, under which Switzerland had previously been operating, was similar in some ways to our Articles of Confederation and was equally ineffective Or to make a more modern analogy, the same differences can be noted in Switzerland before and after the 1848 constitution as exist between the present United Nations and the proposed European federation

Unlike the American constitution, however, which has been amended only twelve times in over a hundred and fifty years, the Swiss constitution has undergone frequent revision In its hundred years of existence it has been amended forty-eight times [1] One of these revisions, that of 1879, went so far as to renumber the articles This greater activity on the part of the Swiss may be due in part at least to the fact that their constitution does not admit the principle of judicial supremacy, and consequently the extension of federal powers cannot so easily be legalized by the interpretations of members of the judiciary favorable to such extension A more basic reason, however, is found in Switzerland's unwritten constitution

By the term *unwritten constitution* I refer to the practices and beliefs which determine the organization and functioning of those basic institutions fundamental to the state States like Great Britain, which have no written constitution in the formal sense, are governed entirely by an unwritten one, most of which, in spite of the fact that it is called unwritten, is actually found in writing Countries that have written constitutions—that is, expressly prepared legal documents whose precepts are legally immune from legislative derogation—cannot, therefore, dispense with the necessity for having unwritten constitutions as well, for the unwritten constitution is the actuality, the effective fundamental law to which the written constitution is at best only an artificial approximation In countries which have both types, however,

[1] William E Rappard, *La Constitution Fedérale de la Suisse* (Boudry, 1948), p 375

*unwritten constitution* is frequently used in a restrictive sense, to apply only to that part of the country's constitution which is not found in the written document—to apply, that is, to the series of customs and usages which affect constitutional practice, usually in the sense of limitations In the broad sense, the unwritten constitution is the constitution wherever found, in the narrow sense, it is that part of the constitution not found in the written document [2]

In place of judicial supremacy, the Swiss written constitution establishes legislative supremacy It would be conceivable for the legislature to extend federal power *motu proprio*, much as the Fascist legislature in Italy extended and distorted the Italian *Statuto* beyond recognition The established Swiss usage, however, is that the legislature exercise its authority with sobriety and when there is a question of extending federal power that it call upon the Swiss people to express their opinion by referendums on specific proposals for constitutional amendment In order to pass the referendum the proposed amendment must be approved both by a majority of the total voters and by a majority of the voters in a majority of the cantons (Art 121, Par 6)

## *RELATIONSHIP BETWEEN THE FEDERAL GOVERNMENT AND THE CANTONS*

The relationship between the federal government and the cantons is less confusing to an American than to a European scholar, for the problems that arise under it are similar to our own In the sense that our states are sovereign, sovereignty resides in the Swiss cantons In each instance the smaller unit has delegated only specific powers to the federal government and reserved all residual powers to itself In both instances, in any of those important fields over which power has been delegated to it, the federal authority is supreme, and in case of conflicts between the rival authorities it is the will of the federal government and not of the cantonal government that prevails A major difference between the American and the Swiss systems, however, lies in the administration of the federal authority In the United States the federal government is usually in a position to administer its own laws In Switzerland the federal administration is still of limited size and consequently the obligation to carry out federal legislation frequently devolves upon the individual cantons An example of this is found in the legal system, where the federal civil and criminal codes are enforced through the cantonal courts

## *THE LEGISLATURE*

The legislature to which the Swiss constitution gives supreme authority, is called the *Assemblée fédérale* It is a bicameral institution patterned after

[2] See Howard Lee McBain, "Constitutions," *Encyclopaedia of the Social Sciences* (New York, 1939), pp 259-262, reprinted in A N Christianson and E M Kirkpatrick, *The People, Politics and the Politician* (New York, 1941), pp 23-29

our Congress,[3] of which the upper house, the *Conseil des états*, is composed of forty-four members, two for each canton (one for each half-canton where applicable), and the lower house, the *Conseil national*, is composed of 194 deputies, representing the Swiss people The councilors of the upper house are selected according to the cantonal laws and consequently no uniform rule is followed Originally most of the councilors were appointed by the cantonal legislatures Now most of them are elected by direct suffrage [4] The lower house is elected by direct suffrage for a four-year term The two houses have equal authority, and all laws must be approved by both of them In this way the small rural cantons are protected against the large urban cantons whose populations are far greater, by the check on legislation which may be exercised by the *Conseil des états*, and the urban cantons, on the other hand, are protected against any regional legislation favoring the rural cantons by their majority in the *Conseil national*

Although supreme legislative power resides in the legislature, it is traditional that the legislature curtail the initiative of its members, in spite of the fact that the constitution appears not to have envisaged any such curtailment (Art 93) No member of either house presents a bill to the legislature In practice his right of initiative is limited to the introduction of a *postulat* or a *motion* A *postulat* is a request addressed to the executive asking that a certain problem be considered, but making no specific proposals If it is passed by a single house it is submitted to the executive for consideration A *motion* is a demand addressed to the executive that it take effective action on a certain matter The *motion* must be passed by both houses and contains specific proposals The action that the executive takes may be either the preparation of a bill for submission to the legislature, in case a law is needed, or the promulgation of a decree *(arrêté)* when a previous law so empowers the executive

Besides having supreme legislative power the *Assemblée fédérale* elects the high-ranking officials of the other branches of the Swiss government such as the *Conseil fédéral* and the *Tribunal fédéral*

## *THE EXECUTIVE*

The executive power of the Swiss government is vested in a seven-man body, the *Conseil fédéral*, whose members are elected for four-year terms by

[3] Georges Werner, "La Constitution et la Régime Politique," in H Lévy Ullmann and B Mirkine-Guetzévitch, *La Vie Juridique des Peuples, VI Suisse* (Paris, 1935), p 21

[4] Many cantonal constitutional laws stipulate that the councilors be elected by popular suffrage for four-year terms (e g, Geneva constitutional law of May 9, 1931, Ticino constitution, coordinated text Art 48 and decree of February 29, 1946, Arts 4 and 9, Vaud constitution, Art 26 bis, passed February 21 and March 11, 1917, and Valais constitution, Art 85 bis, passed December 26, 1920) The latter three stipulate that the elections should coincide with those for the deputies to the *Conseil national*

the *Assemblée fédérale*, following the elections for the *Conseil national* (Art 85, par 4, and Arts 92, 95, and 96) It is the Swiss tradition, however, continually to reelect the same men to the executive for as long as they care to serve Any man eligible for deputy may be elected *conseilleur*, but no two men who reside in the same canton may serve simultaneously (Art 96) In practice, however, the *Assemblée fédérale* further limits itself in its selection in order to assure each linguistic and religious group and each major political party a voice in the executive as well as to assure the larger cantons permanent representation Thus there is always one Italian-speaking member and at least one French-speaking member, and the cantons of Zurich and Bern are continually represented It used also to be the practice to grant Vaud permanent representation, but this tradition was broken a few years ago when Marcel Pilet-Golaz of Vaud was replaced by Max Petitpierre of Neuchâtel The practice of assuring representation of the major parties was put into effect in 1891, when Joseph Zemp of the Catholic Conservative party was elected Previously this party, which was associated with the unfortunate religious war of the Sonderbund, had not been represented on the *Conseil fédéral*

The *Conseil fédéral* functions in much the same way as the commission form of city government that had a certain popularity in America earlier in the century Each member of the seven-man council is in charge of one of the seven administrative departments Foreign Affairs, Finance, Interior, War, Justice, Public Economy, Transportation and Communications Usually a man keeps the same post indefinitely, and the senior member of the present council, the Catholic Conservative councilor from Zug, Mr Philipp Etter, has served as Minister of the Interior for well over a decade

Each year the *Assemblée fédérale* elects one member of the *Conseil fédéral* President and another Vice-President of the Swiss republic The constitution stipulates that the President shall not be immediately reeligible for either office (Art 98), and tradition requires that this year's Vice-President be next year's President

The division of the administrative functions into the seven departments is provided for in the constitution (Art 103), but the method in which the functions are to be divided is not stipulated

The executive power is exercised by the *Conseil fédéral* collectively, and only in 1914 was the constitution modified so that minor matters came within the competence of the individual ministers and the public services Action on important matters must still be determined by the whole body Since the body is representative of all the major political parties in the country, the wishes and interests of all important groups are given consideration

Besides its purely executive authority the *Conseil fédéral* is the law-proposing body, exercising that special function which Harrington was so insistent on separating from the legislative functions Harrington in his

*Oceana* envisaged a Senate, composed of a small number of highly competent persons who would propose laws and a representative Parliament which would approve or disapprove laws presented to it The modern practice of government bills, on the one hand, and the increase in the regulatory power of the administration, on the other, has tended to confine the power of the legislature in all western countries to something like the limits advocated by Harrington 300 years ago, but the tendency is more marked in Switzerland than elsewhere

## *THE FEDERAL COURT*

The constitution also sets up a single federal court (Art 107) with its seat at Lausanne Its structure and functions will be described in Chapter 29, which deals with the Swiss judicial system

Switzerland, it must be remembered, is a federal government and acquaintance with its federal constitutions, both written and unwritten, is only a beginning for the understanding of the country, for what is theoretically true of American federalism is an actuality in Switzerland the basis of the social and political structure is the federated unit It is, therefore, time to examine that unit, which in Switzerland is called the canton

# Chapter 26

# The Cantons

THE CANTONS are sovereigns so far as their sovereignty is not limited by the federal government and as such they exercise all powers not delegated to the federal government Outside the limits of the powers delegated to the federal government the cantons are still supreme, even if in fact the federal power, as in America, is gradually encroaching on the domains originally left them

The basic law of each canton is found in a constitution which, according to the federal constitution, must be submitted to the people of the canton for approval, and every amendment must be approved by the people of the canton and by the federal government as well before it is valid (federal constitution Art 6) Although this appears like unwarranted interference with the prerogatives of a sovereign body, in reality it gives the federal government little power not possessed by the Supreme Court of the United States of America and used whenever it declares an article of a state constitution unconstitutional In Switzerland the federal government is empowered to withhold its approval of an amendment to a cantonal constitution only when the article (1) is contrary to the federal constitution, (2) interferes with the exercise of the people's political rights, or (3) has not been accepted by the people

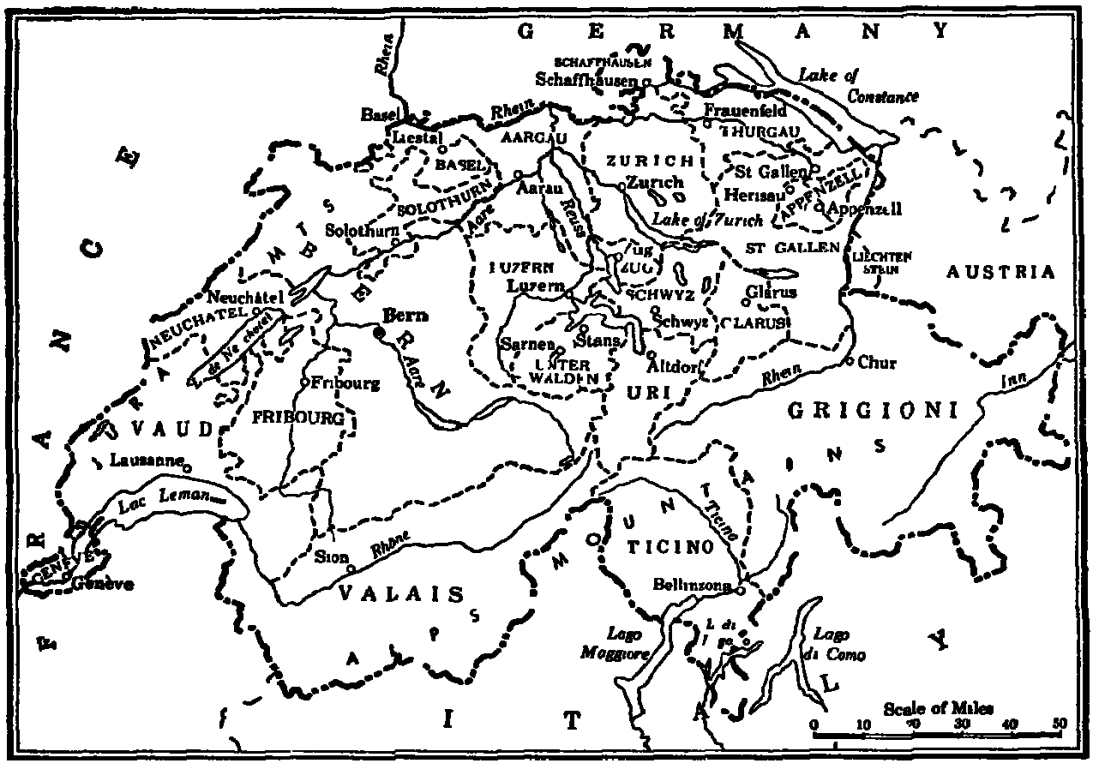
Like the federal constitution, most of the cantonal constitutions have undergone frequent revision Most of them date back to the last century, but frequent changes, sometimes of a fundamental nature, have occurred in many instances

Generally the constitutions contain a bill of rights, based in part on the French bill of rights and in part on Swiss tradition Typical of the latter is the provision found, for example, in the constitutions of Ticino (Art 4) and Valais (Art 5) to the effect that every citizen has a right to be judged by his own judges, i e , by the regular courts

The cantonal legislatures are all unicameral The Swiss people, who established bicameralism for their federal government as a way to reconcile cantonal independence with proportional representation (as the United

States did in the case of its Congress), saw no reason for doing so in the homogeneous cantons The cantonal legislature is either a *Landsgemeinde* composed of all the male citizens or a directly elected representative body called variously the *Grossrat*, the *Kantonsrat*, the *grand conseil*, or the *gran consiglio*

The chief executive power of the canton is vested in a body called variously the *Regiersrat*, the *Kleinrat*, the *conseil d'état*, or the *consiglio di stato* (these latter two terms should not be confused with the French and Italian names for the upper house of the federal Parliament *Conseil des états*




Cantons

and *Consiglio degli stati*) The number of members of the executive council is usually five or seven but Bern and Appenzell Interior Rhodes have nine and Nidwalden has eleven [1]

The chief officer of the executive council is called the *Landamman* (*président, presidente*) He is either elected by the people (in the *Landsgemeinde* cantons), by the *grand conseil* (e g , Fribourg constitution, Art 51), or by the executive council itself (true for the other French-speaking cantons and Ticino) [2] In the French- and Italian-speaking cantons the president, like the President of the confederation, is not immediately reeligible, but in the

[1] See Table 5, p 466
[2] *Ibid*

*Landsgemeinde* cantons, on the other hand, the office of *Landamman* is often for life although the formalities of election are gone through each year [3]

One of the major differences between the cantonal governments and that of the federation is that although the latter follows the doctrine of the complete separation of church and state, most of the former have established churches which often are supported by state funds Only two cantons have adopted what is known as the *plan américain*, under which there is no recognized church, and both these cantons (Geneva and Urban Basel) only adopted disestablishmentarianism after the example of France, which separated church from state in 1905

Generally a canton which is predominantly Roman Catholic supports only the Roman Catholic Church, whereas cantons with a Protestant majority support both religious groups and in some instances dissenters and Jews as well Disestablishment in Geneva, interestingly enough, was primarily the work of the Roman Catholics who had filtered in from France until they became a strong minority in the canton They then united with the anticlerical radicals to put an end to the cantons' support of the Calvinist church, much in the way that Archbishop Hughes was instrumental in eliminating religious instruction in the schools of New York, at a time when that instruction was colored with Protestantism

In the smaller cantons there are no further divisions except for the communes, but most cantons are divided into administrative units, called by various names These administrative divisions generally have little or no autonomy but are the mere tools of the cantonal government Exceptions to this generalization are the districts of Schwyz (called *Bezirken*) and of Grigioni In both of these cantons considerable local autonomy is granted There is a historical explanation for these exceptions Schwyz is an old *Landsgemeinde* canton which grew too populous for the smooth functioning of the *Landsgemeinde*, and therefore in 1848 it replaced the *Landsgemeinde* with an elected legislature for the canton, and with six *Bezirksgemeinden* for the six *Bezirken* The canton of Grigioni is the outgrowth of various leagues of small communities and has never had a highly centralized administration

Of the French- and Italian-speaking cantons, Valais is the only one which gives much prominence to the district Here there is a district council *(conseil de district)* whose members are elected for four-year periods by the members of the municipal councils The district functions rather like an American county, as an intermediary unit between the canton and the commune Such districts have more of a function in a canton like Valais, which is divided sharply between French- and German-speaking communes, than they would have in the smaller unilingual cantons Two other cantons which use the district are Bern (bilingual) and Zurich (German speaking) In

[3] Robert C Brooks, *Government and Politics of Switzerland* (Yonkers, 1920), p 369, speaks of an Eduard Blumer, who had been *Landamman* of Glarus for over thirty years

these instances, however, the cantonal government has kept a more direct control over the districts by the appointment of a prefect *(Regierungsstatthalter)* to administer the district There are thirty such districts in Bern, with 307 communes, and in Zurich there are eleven such districts and 189 communes

The smallest territorial division of Switzerland is the commune, and as in France there is little distinction made between a sparsely populated rural community and a large urban center as far as type of local government goes

There are, however, really three types of commune, the political commune, the religious commune, and the economic commune The political commune usually consists of a legislature, called variously *conseil général* (Neuchâtel, Valais), *conseil communal* (Vaud), *conseil municipal* (Geneva), *consiglio comunale* (Ticino), *Stadtsrat*, and *Gemeindsversamburg* This legislature is composed either of all the adult males, who function in the manner of the New England town meeting, or of a body elected by the people Choice between these systems usually depends on the size of the commune The town meeting system, for instance, is used in Ticino for communes with less than 1000 inhabitants (Art 49) and in Vaud for communes with less than 800 inhabitants (Art 85) There is also an executive, usually plural, called the *conseil communal* (Neuchâtel, Valais), *conseil administratif* (Geneva), *municipalité* (Vaud), *municipalità* (Ticino), or *Gemeindsrat* The communes enjoy little legislative and executive autonomy In Neuchâtel, for instance, no communal ordinance is valid unless it is countersigned by the cantonal executive, the *conseil d'état* (Art 67) Some of the larger cities, such as Geneva (Arts 112-120), for example, have been granted many more powers

Although the communes have limited legislative autonomy, they often perform administrative functions which generally in the United States are left to larger units Traditionally they were the basis of Swiss government, and even today citizenship in a commune is the basis of Swiss citizenship, and it is the commune that is financially responsible for its paupers[4] Also, because of tradition they have kept functions which were they to be set up now for the first time would probably be entrusted to larger units Thus some of the wealthier communes maintain charity hospitals, and asylums for the blind, deaf, and dumb, and support municipal theaters, playgrounds, baths, museums Municipal ownership of the public utilities is common, and in these achievements there are few American cities of equal size which can compete with them

The religious communes *(paroisses, Kirchegemeinden, parrocchie)* are

[4] In 1944 the canton of Ticino assumed responsibility for public assistance to all *Ticinesi*, thus relieving the communes of this responsibility Domenico Visani, "La legislazione sociale nel Ticino," in *La Suisse du Travail* (Zurich, 1948), p 152

parish organizations of the faithful In democratic Switzerland even these are often run in a thoroughly democratic manner [5]

The economic communes were formerly identical with the political communes, but when the federal government stepped in to relieve the *Heimatlosen*, the persons who had lost their residence in one commune and had been unable to gain residence in another, by forcing the communes in which they were residing to grant them citizenship, the communes, in order to protect the economic rights of their original members, began to distinguish between *citoyen* and *bourgeois* The former word was employed to cover all persons who had rights of communal citizenship regardless of how acquired, and the latter term applied to those *citoyens* who fulfilled the local requirement as well This requirement was usually birth in the community Only the second group, the *bourgeois*, belongs to the economic community *(commune bourgeoise, Burgergemeinde)* These economic communities are sometimes wealthy Robert Brooks has this to say of the economic communes

"Many of these communes possess extensive estates in forest, meadow, and tillable land, and other properties, the usufruct of which is apportioned among the burghers or devoted to the relief of their orphans and dependents" [6]

In order to protect these economic interests of the old settlers, the constitution of the canton of Valais specifically states that whenever over half of the voters *(assemblée primaire)* are *nonbourgeois*, the *bourgeois* alone shall have a special *bourgeois* council to tend to their common property (Art 70)

As would be expected in a democratic country with experience in self-government, many special districts are formed for carrying out specific functions Thus a large commune can break up to create two or more school districts, or two or more sparsely populated communes may combine to run a more efficient secondary school Special districts may also be formed to assure better fire protection or control of water supply and for other matters

It is through these myriad activities of the canton and the commune that the democratic political life of Switzerland has grown and prospered They are both its result and its cause Democracy works most naturally and probably best when the group is small enough for continual personal contacts, for democracy, as the word is used in the west, can be distinguished from other political ideals by its interest in individuals As soon as the public becomes anonymous to the man in power, democracy is likely to suffer In the Swiss communes and even in the smaller cantons that day has yet to come

[5] Nicola Jaeger, *Lezioni di diritto svizzero* (Milan, 1944), p 102, describes the popular election of parish priests in Ticino

[6] Brooks, *op cit*, pp 325-326

Chapter 27

# *Political Parties and Elections in Switzerland*

THE MOST peculiar aspect of the Swiss political system is the lack of opposition The British are distinguished by the "loyalty" and responsibility of His Majesty's Loyal Opposition and by the fact that its leader receives remuneration from the government Other European oppositions are often disorganized and disloyal, and almost certainly irresponsible In Switzerland, however, it is the practice to include in the seven-man executive, the *Conseil fédéral*, representatives of all the major parties, and thus the Swiss government is one of compromise On January 1, 1949, a Catholic Conservative President, Enrico Celio, was replaced by Switzerland's first Socialist President, Ernst Nobs This occurred without causing any perceptible change in Swiss policy as that policy was already a compromise between these and other points of view, ever since the Socialists became strong enough to merit a membership on the council

Like other western democracies on the European continent, Switzerland has a multi-party system In the multi-party system the political party has a somewhat different function from that which it performs in the two-party system Where there are many parties each one tends to represent an idea, party members are loyal to a philosophy even to the point of noncooperation with other parties In such a system the practicalities of creating a stable government are often sacrificed to the exigencies of the purity of the party ideal Thus the party becomes much more than a group for political action, or a pressure group, it is a cult and a club as well

In the two-party system ideas and ideals are subordinated to the practicalities of elections, and party members are teammates, united for the specific purpose of winning elections rather than coreligionists confessing a common creed

Perhaps nowhere else has the multi-party system functioned so smoothly as in Switzerland The smallness of the country, the mutual tolerance which the Swiss have learned to practice, and the fact that the parties are loosely organized are all factors which have helped bring about this felicitous state of affairs In Switzerland the parties are little more than loose federations of

quasi-independent cantonal groups, which accept little direction from national headquarters In Switzerland only members of the *Assemblée fédérale* are chosen by the people The deputies are elected proportionately by the cantons and no single candidate is seeking votes from more than his own canton For this reason campaigns are fought on local issues, and a party label is not a clear indication of a candidate's political philosophy unless it is known for what canton he is standing

Political currents in western Europe today are such that the multi-party system tends to give rise to five major parties and various ancillary groups No two countries of course present exactly the same picture and no one country exactly fits the composite picture presented here, but the intrinsic pattern is as follows (1) the Communist party, (2) the Socialist party, (3) the Catholic center, (4) the anticlerical center, and (5) the reactionaries Smaller groups are usually of one of two kinds either they are basically unprincipled groups surrounding some local leader or they represent ideas which are not in vogue today, like anarchism, Trotskyism, nineteenth-century liberalism

Modern Swiss politics got under way at the close of the eighteenth century during the fight between the unitarians and the federalists The former were in favor of a strong centralized government, and the federalist party, unlike its American homonym, was the states'-rights group, which opposed the innovations of the French Revolution and wished to guard jealously the independence of the cantons

The next important political group to appear on the scene was the Liberal party, which in Switzerland as in Italy was the Romantic Movement's contribution to the art of politics The Liberals can take much of the credit for the creation of modern Switzerland and particularly for the compromise constitution of 1848 This party of the followers of Benjamin Constant, which until recently was the fourth largest party in Switzerland, has unfortunately gone the way of so many liberal groups Fled are the fervor and faith that made of the liberal movement one of the glories of the past century With the end of romanticism and an unfettered economy liberal hearts have tended to atrophy, and once generous men have turned into sterile reactionaries Today it is a federalist, i e , states'-rights, party, opposed to increase of government power and composed primarily of French-speaking Protestant aristocrats and upper bourgeoisie What strength it still has is found in Geneva, Lausanne, Neuchâtel, and Urban Basel In the 1947 elections the Liberals succeeded in electing only seven of their party to the *Conseil national*

The next great political party to arise in Switzerland, and the oldest to retain top rank, was the Radical party, formed in 1832 when the left wing of the Liberal party split off The Liberal party was then known as the center, and consequently the Radicals acquired the name of the left, although they actually became the typical anticlerical center party, with policies and platforms substantially similar to those of the French Radical Socialist party and, except

on questions of centralization, similar to those of the Italian Republican party The Radical party is primarily Protestant and is recruited from both the agricultural and the urban population If the Liberal party can be given the major credit for the conception of modern Switzerland by its work from 1815 to 1848, it is the Radicals who in the governments from 1848 to 1918 molded the country into what it is today To them goes much of the credit for such reforms as the unification of the currency, weights and measures, and postal services, the incorporation of the *Heimatlosen* in the communes, and the foundation of the Polytechnical Institute at Zurich On the other hand, this party was the strong opponent of proportional representation The Radicals have been the party of centralization, in this respect the continuation of the old unitarian group Although basically and traditionally in favor of government nonintervention in the economic sphere, they have recently made concessions to the Socialists on these matters They have also lost some of the former rigor of their anticlericalism, which has been attenuated by the temper of the times and is now expressed principally in terms of the complete secularization of the state After a slight eclipse in the period between the two wars, the Radical party again forged ahead in the 1947 elections and now holds first place in number of deputies, with fifty-two

The Catholic Conservative party has the third largest number of deputies sitting in the *Conseil national* and the largest number of councilors sitting in the *Conseil des états* This party is supreme in many of the rural Catholic cantons and virtually nonexistent in other predominantly Protestant communities Like several other Catholic parties (e g, the M R P in France and the Christian Democracy in Italy), members of the Catholic Conservative party expound varying views on almost all subjects with the exception of those touching on their religious faith Traditionally the party is known as the right, and unlike the French and Italian Catholic parties, which eschew any word like conservative in their party name, the Swiss Catholic party is not ashamed of its rightist position, which is based on an extreme federalism and a dislike and distrust of increased national authority Some members of the party have quite liberal views on economic questions The conservative members of the party are usually able to prevent them from being put into practice, but the subjects on which the party is really united are questions like restrictions of the Roman Catholic Church and encroachment of the state in the fields of family relations and education, which they vehemently oppose They favor a strong states'-rights program, so they will have as little interference as possible in those cantons where they have a majority

This party, like our southern Democrats, underwent a severe eclipse after their attempt at insurrection in 1847 and the first member of the party to be elected to the *Conseil fédéral* took his seat in 1891 In 1919 the party acquired a second seat on that august body, and since that time it has been continuously given that degree of responsibility in the management of Swiss

affairs which the number of its votes warrants Although it is still opposed to certain of the tendencies of the Swiss government, the day is long past when it was considered a revolutionary threat

The third important political party in Switzerland, the Social Democrat party, is nominally a Marxist group It follows democratic and evolutionary procedures, however, and as Socialist groups go is far to the right (it is known in Switzerland as the extreme left) This group can be compared to the right wing of the French Socialist party and to the Italian Socialist Workers' party of Giuseppe Saragat Although Socialist groups had been active in Switzerland since about 1830, the first Socialist deputy was elected in 1890 The present strength of this party, which advocates government ownership of basic industries, is found mainly among the city workers Originally the party was antimilitarist, but proximity to fascist countries has changed its mind on the point After the 1947 elections the Social Democrats had the second largest number of deputies (forty-eight) and the third largest number of councilors (five) [1]

The Communist party, now called the Labor party, has had rather rough sledding in Switzerland The general prosperity of the country and the political moderation of the people have not been conducive to Communist success Furthermore, Swiss conservatism and the fear of disturbing the complete neutrality which is Switzerland's tradition caused the federal government in 1940 to outlaw all extremist parties, and only after the war was over, in 1945, was this measure repealed Several cantons took similar action against the Communists at an earlier date Typical of these proscriptions are Article 8 bis of Vaud, which reads, "Associations and organizations directly affiliated with foreign or international organizations whose activities run counter to public order, are prohibited within the territory of the canton," and Article 14 bis of Geneva, which reads, "The activity of associations and organizations directly or indirectly affiliated with the Communist international being dangerous to the state and to public order, is therefore pro-

[1] The present Assembly, elected October 26, 1947, is composed as follows

| | | | |
|---|---|---|---|
| Radicals | 52 | Communists | 7 |
| Social Democrats | 48 | Liberal Socialists | 9 |
| Catholic Conservatives | 44 | Liberals | 7 |
| Farmer's party | 21 | Democrats | 5 |
| | | Independents | 1 |

The Council of States as of December, 1947, was composed as follows

| | | | |
|---|---|---|---|
| Catholic Conservatives | 18 | Farmers' party | 4 |
| Radicals | 11 | Liberals | 2 |
| Social Democrats | 5 | Democrats | 2 |
| | | Independents | 2 |

From *Statesman's Yearbook*, 1948 Slightly different but incomplete figures are given by Jean Charles Brandet, writing in *Il ponte* in 1948 It is presumed this is caused by changes in the party alignments of independent deputies and deputies representing small parties

hibited within the territory of the canton " The tendency after the war, however, has been to repeal these amendments to the cantonal constitutions Thus the Vaud amendment, which was passed January 30, 1938, was repealed by a referendum of November 17, 1946, and the Geneva amendment, which went even so far as to exclude Communists from the right of voting, passed June 13, 1937, was repealed February 10, 1946 [2]

With all these handicaps it is not surprising that the Swiss Communist party is small For the present at least, most of the Swiss seem content enough with conditions as they are, and this atmosphere of contentment is not conducive to significant gains in Communist strength After the 1947 elections there were seven Communist deputies and no Communist councilors

For the same basic reasons that the Communists are weak in Switzerland, there is likewise no strong reactionary movement Both extremes are products of unrest and discontent True conservatives can find themselves at home in the Catholic party if they are of that religious persuasion, and in the Liberal party, should they be Protestants In this way the situation differs from that of France, where conservatives and reactionaries unite around De Gaulle But in Switzerland, if communism is only a minor problem, it can be said that reaction is a nonexistent one

At the present time the fourth-largest party in Switzerland is the Farmers' party, an offshoot of the Radicals, which was founded in 1918 This group is centered in the agricultural areas of northwestern (Protestant) Switzerland (Rural Basel, Aargau, Schaffhausen, Vaud) This party is strongly anti-Marxist and "opposes all intervention on the part of the state in the economic life of the community that does not directly benefit the farmer "

Switzerland has long been a champion of democracy, and universal suffrage is a concept as dear to the hearts of its citizens as it is hallowed in its myths

[2] The Swiss Legation in Washington, however, in a letter dated February 3, 1950, advised that Switzerland is amending its penal code in a manner that will seriously curtail the activities of Communist and reactionary parties Among the more important provisions to be included in the penal code are the following

"A person who enters into relations with a foreign government, with foreign political parties or other organizations and agents of a foreign country, with the aim to promote, advocate or support any attempt or action against the security of Switzerland in propagating false and distorted statements will be punished with imprisonment up to five years, or, in severe cases, with penitentiary The same applies—without penitentiary—in the case of illegal *action* directed against the constitutional order of the state and the cantons

"A person who, without official consent and in usurping the legal powers of a government department or official, undertakes any action for a foreign government or for a foreign political party, will be punished with imprisonment The same applies to persons who try to enlist supporters or promoters for such action

"Any person who is active in *propaganda work* with the aim of illegally disturbing or changing the constitutional order of the Confederation or the cantons, and any person who favors such propaganda, particularly originating with a foreign government will be punished with imprisonment or fine "

and traditions The federal constitution (Art 74) stipulates, "Every Swiss over twenty years of age who has not lost active citizenship rights in the canton within which he is domiciled, has the right to vote" (in federal elections) The following article gives the right of holding office to every layman who has the right to vote Similar regulations are found in most of the cantonal constitutions [3] In spite of their attachment to the principle of universal suffrage the Swiss have never extended it to women, although neither in the federal constitution nor in the cantonal ones this writer has been able to examine is the right to vote expressly denied them The very tradition of democratic rights in Switzerland perhaps has worked against female suffrage These rights are rooted in an era when female suffrage would have appeared a ridiculous procedure Today the Swiss seem to feel it is a superfluous one

The question of female suffrage has come up often in Switzerland, particularly in the Protestant cantons In many of the latter women can vote in certain semiofficial elections such as those for the members of the *conseil de prud'hommes* Frequently they may even be elected to these councils Voting in political elections, however, has consistently been denied them From 1919 to 1946 thirteen cantonal referenda have been taken on the question and in each case the project was voted down Four of these referenda took place in 1946, when Urban Basel, Rural Basel, Geneva, and the Catholic canton of Ticino all rejected the proposal This was the third rejection for similar proposals in both Urban Basel and Geneva [4]

The Swiss exercise their right of suffrage in four major types of situations (1) for the election of their representatives and certain other officials, (2) for the initiative, (3) for constitutional amendments and other referenda, and (4) for the exercise of direct democracy

Every four years the people go to the polls to elect the *Conseil national*, and in many of the cantons at the same time they elect the canton's members of the *Conseil des états* The only other federal officials directly elected by the people are the jurors who serve with the federal Court of Assizes

The elections for the deputies to the *Conseil national* are held in the December preceding leap year Each canton or half-canton, as the case may be, is an election district to which is allotted one deputy for every 22,000 inhabitants Fractions of over 11,000 entitle the district to an extra deputy, and each district, regardless of its smallness, has the right to at least one deputy In districts which elect more than one deputy, as is true in the vast majority of cases, a system of proportional representation is used The total number of

[3] Neuchâtel constitution, Art 6, permits all citizens to hold public office Neighboring Fribourg, on the other hand, denies the clergy even the right to vote (constitution, art 25)

[4] G Sauser-Hall, *Guide Politique Suisse* (Lausanne, 1947), pp 105-106 The other cantons to bring the question to a vote of the people have been Zurich (twice), St Gallen, Neuchâtel (twice)

votes cast in the district is divided by the number of deputies to be elected plus one The result is called the electoral quotient Each party then has the right to the number of deputies equivalent to the quotient obtained by dividing the total number of votes cast for the party by the electoral quotient When all this mathematics has not resulted in the assignment of all available seats to one or another of the various contesting parties, the total number of votes cast for each party is divided by one more than the number of seats already assigned to that particular party and the remaining seat is given to the party having the largest quotient

Each voter, besides having the right to vote for a party, can choose one or two men within the party to whom to give optional preference votes Both of these votes can be given to the same man, or single votes can be given two different candidates, but the candidates must always be of the same party After the number of seats assigned to each party has been determined by one or both of the above-described methods, the preference votes for the individual candidates are counted and the seats are assigned the individual candidates in accordance with the number of preference votes they receive

There are no by-elections for the *Conseil national* If a seat is vacated for any reason during a deputy's four-year term the unsuccessful candidate of the same party in the same canton receiving the greatest number of preference votes takes it

Members of the *Conseil des états* are often elected by general direct suffrage at the same time as the deputies, but since these elections are controlled by cantonal law there is no uniform system followed throughout the country

The only other federal officials elected by general direct suffrage are the jurors In this case the electoral districts are marked out by the cantons One man is elected for each thousand inhabitants Election is for six years From the names so selected the actual jurors are drawn by lot Fifty-four names are so chosen for each case, and each party has the right to challenge twenty names If both do not exhaust their legal number of challenges, a panel of fourteen is chosen by lot from the remaining persons, twelve of whom will serve as jurors and two as alternates, who will attend the trial but will have voting powers only in substitution for incapacitated jurors

In all but the *Landsgemeinde* cantons similar elections are held for the cantonal legislature, and in some cantons the federal system is followed for the election of jurors In the elections of the cantonal legislature, however, some cantons allow more than two preference votes [5]

Originally it was the custom to delegate to the cantonal legislature the power of electing the cantonal executive, just as the *Assemblée fédérale* elects the federal executive, but in the early twentieth century the trend went the other way and when on January 30, 1921, the people of Fribourg amended

[5] For a detailed description of this system see Robert C Brooks, *Government and Politics of Switzerland* (Yonkers, 1920), pp 349-364

their constitution so as to establish direct elections for the executive, this system became unanimous for all the cantons

Most Swiss cantonal elections for the legislature are held every three or four years There are exceptions, however Fribourg's elections are held every five years, and those of Grigioni every two years

With respect to judges most cantons follow the federal practice of having them selected by the legislature, although there are exceptions to this rule In the cantons of Geneva and Ticino all judges [6] are elected directly by the people (Geneva, Art 99, Ticino, Art 45) The same is true for Valais, at least in the lower orders (Art 63)

Judges are elected for varying terms (six years for federal judges, cantonal judges in Geneva, Neuchâtel, three, Fribourg, eight, Ticino, ten) but they are in all instances immediately reeligible and generally reelected

Those communes which do not operate on the town meeting basis elect either a municipal council or a municipal executive *maire* (Geneva), *syndic* (Vaud), *sindaco* (Ticino), *président* (Valais) In the larger communes of some cantons, which have both, each is elected directly (e g , Ticino, Art 79, Valais, Art 73, Geneva, Arts 104-106)

## *INDIRECT REPRESENTATION*

There is a good deal of indirect representation in Switzerland This system of creating intermediate electors between the people and the officeholders is often considered undemocratic and many critics of and skeptics concerning the democracy of Soviet Russia point an accusing finger at the degree to which this system is used in that country

In Switzerland it is used for the federal judiciary, which is elected by the *Assemblée fédérale* every six years (Art 107), and for the federal executive, also elected by the legislature, but for four-year terms (Art 96) Until recently it was also used in several cantons for the election of their executives, and as was pointed out a few paragraphs above, many cantons still elect their judges indirectly by the legislatures In Valais the district council is elected indirectly by the municipal councils (Art 66) and in some cantons, following the French and Italian systems, the communal executive is elected by the communal legislature (e g , Neuchâtel, Art 66, Vaud, Art 87)

In the case of Switzerland, whatever fears one may have concerning the lack of democracy in these indirect elections can easily be allayed Many of the officials elected indirectly in Switzerland are appointed in other countries (e g , federal judges in the United States), and certainly the indirect selection is no less democratic than the appointment, which is used sparingly in Switzerland More important, however, is the immediate check the people have on

[6] Except the judges of the Ticino Court of Criminal Cassation, who are elected by the *gran consiglio* (legislature)

the Swiss government through the initiative and referendum, which will be discussed immediately

## *INITIATIVE*

Popular initiative and its sister, the referendum, were once dear to the heart of American political scientists and in the first part of the twentieth century were introduced into many of our more progressive states by various reform and better government movements In general, American experience with them has been disappointing The Swiss, however, who used them long before we did, have made of them a functioning and integral part of their democracy

Switzerland has a system of popular initiative both for constitutional amendment [7] and for ordinary legislation An amendment to the federal constitution by initiative requires 50,000 signatures, which must be gathered within a period of six months (Art 121) Either it may be made in the form of a general request for a change in the constitution or it may include the submission of a detailed amendment already put in final form In the first case the two houses of the legislature look over the proposal and, if they approve it, put it in final form and submit it to the people for a referendum If, on the other hand, they do not approve it, or cannot agree, the initiative proposal is itself submitted to the people for a referendum If the people are favorable to it then the two houses must submit a definitive amendment to the people on the subject, which is then voted on a second time by the people, who either accept or reject it If the amendment is already prepared in detail in the initiative proposal, it is submitted to the people for a referendum provided at least one house approves it If both houses oppose the amendment, however, they can either submit a counterproposal to the people at the same time the initiative proposal is submitted to them or simply submit the original proposal and advise the people to reject it

In case the initiative proposal is for a complete revision of the constitution, this proposal is submitted to the people If it is accepted, Parliament is dissolved and a new Parliament is called to act as a constitutional convention

Each canton also has a provision for the amendment of the cantonal constitution by popular initiative [8] These proposals require a smaller number of signatures, running from 1000 persons in Zug [9] to 6000 in Fribourg (Art 71), Valais (Art 101), and Vaud (Art 100), and 7000 in Ticino (Art 52)

The federal constitution grants no privilege of popular initiative for ordinary legislation but on the contrary each canton does grant this privilege with

[7] W E Rappard, *La Constitution Fédérale de la Suisse* (Boudry, 1948), pp 307-374, gives a complete analysis of the initiative and referendum as used for constitutional amendments in Switzerland from 1874 to 1948

[8] G Sauser-Hall, *op cit*, p 110

[9] Robert C Brooks, *op cit*, p 376

respect to cantonal legislation If the proposal is only to be a law (or in some cantons also a decree), the number of signatures required on the petition is often lower than for a constitutional amendment Here the number varies from 800 in Zug [10] to 6000 in the cantons of Vaud (Art 27) and Fribourg (Art 28) [11]

At least one canton (Ticino) provides in its constitution for the case of the initiative with respect to communal legislation (Art 49)

### *REFERENDUM*

The referendum is an old Swiss custom Its theoretical basis is found in the writings of Switzerland's most famous political theorist, Jean Jacques Rousseau It is a typical manifestation of the direct democracy which that master insisted was the only true democracy

The referendum was introduced into several of the cantonal constitutions early in the nineteenth century With respect to constitutional amendments it was included in the federal constitution in 1874 (Art 6)

Switzerland uses both an obligatory and an optional referendum As far as the federal government goes, the only obligatory referendum is for constitutional amendments, which must be passed by a majority of the voters and the majority of the cantons as well

The revised constitution of 1874 included for the first time a provision for the optional referendum on basic legislation (Art 89) In order to have a law or decree submitted to a referendum, it is necessary to get a petition to that effect signed by 30,000 persons

The situation in the cantons is slightly different In about half the cantons the referendum is obligatory for both constitutional amendments and legislation (Zurich, Bern, Schaffhausen, Rural Basel, Schwyz, Grigioni, Aargau, Thurgau, Valais, etc ) In other cantons the referendum on legislation is optional and requires the submission of a petition with a certain number of signatures (Urban Basel, St Gallen, Ticino, Vaud, Neuchâtel, Geneva, Fribourg, etc )

Along with the initiative, the canton of Ticino grants the right of referendum with respect to municipal legislation (Art 49) An optional referendum is established for the communes of Vaud and Geneva at the request of one-fifth of the voters (or 2500 persons in the case of Lausanne and 2000 in the case of Geneva) (Vaud, Art 90 bis, Geneva, Annex 5)

### *LANDSGEMEINDE*

One of the institutions which the Swiss particularly treasure is the *Landsgemeinde* (Italian, *arengo*, Romansh *cumun*), the assembly of adult males

[10] *Ibid*

[11] In the *Landsgemeinde* cantons the number is of course much smaller, and in Glarus and Appenzell Interior a single qualified voter can move an amendment *Ibid*, pp 376-377

The *Landsgemeinde* is the instrument of a true, direct democracy in its elementary form, before societies became so complex that free citizens had to give up their democratic privilege of lawmaking and delegate it to their representatives Even Switzerland cannot afford the luxury of the *Landsgemeinde*, either for the national government or for the more populous or more extensive of its cantons The tradition has remained in only five of its smaller cantons and half-cantons Glarus, Nidwalden, Obwalden, and the two Appenzells Schwyz and Zug discarded the system in the middle of the nineteenth century and Uri in 1928, but it lives on in these cantons and in Grigioni in the district assemblies

Foreigners who have witnessed a *Landsgemeinde* seem to be quite impressed These assemblies meet only once a year, in the spring, usually late April or early May The meeting place is the central square Traditionally each man comes armed, and his knife is a symbol of his freedom There is a certain amount of pomp and circumstance connected with the meeting, but the seriousness of purpose is recognized by the participants Attendance varies from year to year and from canton to canton, but the percentage that turns up is roughly equivalent to the percentage that votes in the other cantons

The *Landsgemeinde*, like its American counterpart, the town meeting, is a splendid democratic institution which does not seem to grow well when transplanted It needs the roots of tradition in order to prosper, and thus, however appealing the idea may be to the political theorist and the proponent of pure democracy, experience seems to indicate that it is not widely susceptible of emulation [12]

[12] For excellent accounts of the *Landsgemeinde* see Robert C Brooks, *op cit*, pp 365-385, or W A Leibeskind, "Gli arenghi della Svizzera," *Il ponte*, August-September, 1948, pp 763-766

Chapter 28

# Governmental Activities in Switzerland

THE PROBLEM of describing the Swiss administration is greatly complicated by the fact that much of it is carried out concurrently by the federal and cantonal governments For this reason it is not practical to discuss federal administration apart from cantonal administration In this chapter then, which is concerned with Switzerland as a service state, the various functions performed by the administration will be taken up singly and the part the federal and the cantonal governments play in each instance will be explained The order chosen for the presentation of the material is based on the organization of the federal government into seven administrative departments, each of which is headed by a member of the *Conseil fédéral* Those functions which are left entirely in the hands of the cantons without any supervision from the federal government are for the most part minor problems of interest primarily to the technician in municipal administration

The activities of the Swiss administration are carried out by three categories of persons *magistrats*, *fonctionnaires*, and *employés* The first category comprises the high officials who are said to exercise the power of the state This term covers members of Parliament, members of the seven-man executive, judges, chief prosecuting attorneys, etc The second category, the *fonctionnaires*, includes the other members of what in English are called the officer class (In both French and Italian the term *officier*—Italian, *ufficiale*—refers only to military persons, and the term *fonctionnaire*—Italian, *funzionario*—is used for persons in a civilian capacity) The third category, the *employés*, comprises clerks, secretaries, ushers, etc, that is, the persons who are in a subordinate position and are supposed to carry out orders rather than to do any independent thinking

The total number of federal employees (I use the English word to include all three Swiss categories) is over 75,000 More than a third of these are employed by the Swiss railroads, and another third by the telegraph, telephone, postal, and customs authorities Appointments to the service are for three-year periods, usually renewed unless for disciplinary reasons suspension is warranted Disciplinary power is exercised by the *Conseil fédéral* There

is a federal personnel office charged with bringing about an efficient use of the civil servants, and a system of administrative justice for the settlement of disputes in administrative law,[1] for which the *Tribunal fédéral* is competent

## *DEPARTMENT OF FOREIGN AFFAIRS (DEPARTEMENT POLITIQUE)*

Originally the Department of Foreign Affairs changed hands each year with the presidency, so that foreign governments, when treating with the Foreign Minister, would actually be treating with the President of the confederation At present, however, this department remains in the hands of the same councilor and no longer changes each year with the President It also has under its wing the propaganda bureau of the Swiss government, which goes by the more palatable title of the Section for Information and the Press

The Swiss foreign service is under the direction of the Foreign Affairs Department It is typical of Swiss moderation that the confederation accredits no ambassadors The chiefs of all her missions have only the rank of minister Since the exchange of diplomatic representatives is usually on a reciprocal basis most foreign countries accredit only ministers to Switzerland, France, however, is an exception and has an ambassador at Bern This action on the part of France seems to be part of a concerted plan on her part to gain Swiss good will by a flattery which the Swiss appear to consider excessive [2]

All in all, Switzerland is represented in forty-one foreign countries, and forty-four sovereigns have accredited representatives at Bern The discrepancy is due to the fact that the Swiss maintain a single representative at Buenos Aires who serves as minister to Argentina, Chile, Uruguary, and Paraguay, whereas the three former of these countries have their own representatives in Switzerland, and that though the Pope has a nuncio at Bern, Switzerland is not represented at the Holy See

## *INTERIOR DEPARTMENT*

The Department of the Interior has been assigned the function of carrying out the federal government's policies with respect to education, public works, conservation, and public health It also is in charge of the central statistical bureau

The first of these functions, education, is one which the Swiss still entrust

[1] See infra

[2] A similar attempt to ingratiate herself by a promiscuous bestowal of memberships in the *Legion d'honneur*, particularly among the French Swiss, caused sufficient reaction in the country so that in 1931 a constitutional amendment was adopted by a two to one majority of the people prohibiting a Swiss citizen from accepting a foreign decoration

in great part to the cantons The federal government, however, has supervisory power through a system similar to our grants-in-aid

Primary education in Switzerland is free and compulsory, both in theory and in practice Federal aid at the rate of one franc per capita per annum is paid to each canton as a supplement to be used for the maintenance and improvement of the public primary schools This money must be spent entirely for public schools and it must be used to improve the systems rather than to permit the cantons to economize on the use of their own funds Additional grants of sixty centimes are given to most of the Catholic cantons (Uri, Schwyz, Unterwald, Appenzell Exterior Rhodes, Grigioni, Ticino, and Valais), and a still further subsidy of sixty centimes is granted both Ticino and Grigioni With respect to Grigioni, however, this last supplement is paid only for the Italian- and Romansh-speaking inhabitants These special grants are probably to make possible the establishment of public schools in the small and isolated localities where otherwise the students would be forced to attend Catholic parochial schools

Secondary school education is also in the hands of the cantons, although here again the federal government enters through a grant-in-aid program The secondary school, the *gymnase*, leads to the baccalaureate degree and to the universities and higher technical schools In this respect the system is generally similar to that of France

The federal constitution grants the confederation the right to establish a Superior Technical School and a university (Art 27, Par 1) The Superior Technical School has been created and is located in Zurich, but as yet no federally controlled university has been set up The main reason for this is that Switzerland already has seven universities under cantonal supervision, and it is felt that the creation of a federal university would serve mainly to weaken the institutions already in existence Four of them are in French Switzerland, namely, those of Geneva (1873), Fribourg (1889), Lausanne (1890), and Neuchâtel (1909) The three German Swiss universities are found in Basel (1534), Zurich (1833), and Bern (1834)

Besides the public schools there are the parochial schools and many private schools for both Swiss and foreign children Lausanne is perhaps still the center of genteel female education, and many a young lady is not considered properly finished by an anxious parent unless she has been subject to a Swiss finishing school

The Swiss school system, however, is not quite so democratic as it might seem from the above sketch Admission to the classical secondary schools is possible only to students who have taken Greek and Latin in the primary schools, and not all primary schools teach Greek and Latin This means that the parents of a child who lives in an isolated place may have to make considerably greater sacrifices to assure their child the best education than do parents who live near a better primary school At least one authority finds

another weakness in the Swiss educational system, and that is the search for mediocrity Speaking of the primary school he says, "There it is that young Switzerland learns to be disciplined, respectful of the average, mistrustful of all that is out of the normal, either high or low, learns in short 'equality' It must be admitted that if Switzerland is a land of liberty it is also a land of intolerance toward the best and the worst—the head and the tail of the class Perhaps democratic liberty must be paid for at this price The best, if they really have a vigorous nature, succeed in spite of everything, if not in their own country, at least by the round about method of going abroad But the weakest have a sad lot, they lower the average and are looked down on" [3]

The federal government also runs a national library which tries to acquire copies of all books (1) published in Switzerland, (2) written by Swiss and (3) about Switzerland This library is located in Bern

There is a national museum, under the direction of the Department of the Interior, located at Zurich

The public works division of the Department of the Interior is interested principally in public roads, public buildings, and flood control

According to Swiss law there is no federal public domain All land that is not private property is in the public domain of the canton of whose territory it forms a part Therefore the maintenance of public roads, for instance, is directly the problem of the canton concerned Federal grants-in-aid, however, have been necessary in order to help some of the cantons defray the high costs of maintaining roads over some of the Alpine passes Thus it has long been customary to grant subsidies to the four cantons of Uri, Grigioni, Ticino, and Valais for this purpose Recently subsidies have been granted many other cantons for the maintenance of roads of general public interest either as post roads or as tourist bait This division of the public works section of the Department of the Interior is called the *Inspectorat des travaux publics*

Another division, the *Direction des constructions fédérales*, is in charge of the construction and maintenance of public buildings

The flood control division is concerned with preventing the rivers from damaging the land and with attempts to create more fertile land This work is done by damming the streams, altering their course, etc

In order to carry out its functions the public works section is obliged to avail itself of the right of eminent domain, even without the concept of federal domain Land thus appropriated by the confederation is paid for at a rate fixed by a three-man commission, one of whose members is chosen by the *Conseil fédéral*, another by the *Tribunal fédéral*, and the third by the interested canton

[3] Denis de Rougemont and Charlotte Muret, *The Heart of Europe* (New York, 1941), pp 114-115

The conservation section of the Ministry of the Interior carries out authority vested in the federal government by Articles 24 and 25 of the constitution This authority consists in supervising the cantons in the exercise of their powers over publicly and privately owned forests and in the enforcement of the federal government's basic legislation on hunting and fishing

All forests in Switzerland, whether publicly or privately owned, are classified as protective or nonprotective Protective forests, as the name implies, are those which stop avalanches, break winds, control the courses of streams —in short, forests whose existence is in itself a public benefit It is these forests with which the conservation division is particularly concerned

The federal government and the cantons have concurrent jurisdiction over hunting and fishing The federal government passes minimal legislation which must be observed throughout the confederation, and the cantons are free to legislate further along the same lines Hunting and fishing are prohibited without license with the exception of line fishing from the banks of a river or a lake Several cantons, besides selling regular hunting or fishing licenses, sell exclusive rights over large tracts of land at considerably higher prices This system not only brings in additional revenue but also tends to preserve wild life Several cantons have special reserves for the alpine deer One national park has been established at Zernaz where all wild life is allowed to live and grow without human intervention

The public health section of the Ministry of the Interior is vested with the powers conferred on the federal government by Article 69 and 69 bis of the constitution The federal government and the cantons split the cost of the epidemiology division, which is concerned primarily with four of the more dangerous contagious diseases smallpox, cholera, plague, and typhus The federal government alone has control over suppression of the drug traffic, and it supervises and sets standards of housing and care in the fight against tuberculosis Similar power is exercised over serious animal diseases, and in extreme cases the federal government can order the destruction of entire herds In these cases the owners are entitled to indemnification, which is more than can be said in similar cases in the United States

The Central Statistical Bureau of the Ministry of the Interior compiles a statistical yearbook and prepares a decennial census

## *THE DEPARTMENT OF JUSTICE AND POLICE*

The Department of Justice and Police is concerned with the major problems of justice and police and with certain minor problems not mentioned in its title It has five divisions

The division of justice of the Department of Justice and Police is one of the most interesting sections of the Swiss government Perhaps its most important function is to prepare the final drafts of all federal laws It also collaborates with the Foreign Affairs Department over the final wording

of treaties and examines all questions of constitutional law with which the *Conseil fédéral* is concerned

Another function of great importance performed by this division is the surveillance of the *registre foncier* This register lists all real property in Switzerland which is owned privately, giving not only the owner but all liens on the property as well This system, which is not dissimilar to the Torrens law successfully adopted in Australia, tends to clear titles on real property and minimize uncertainty and litigation as to title

The police division is concerned with extradition and with the control of foreigners in Switzerland It also acts as a Bureau of Motor Vehicles and is charged with carrying out the decisions of the cantonal courts in criminal cases when it is the federal law that is being applied

The division of the public prosecutor, established in 1889, is the Swiss equivalent of the F B I It is charged with arresting violators of the federal criminal law

The fourth division of this department is concerned with the protection and registration of copyrights, patents, and trademarks

The fifth division has supervisory authority over private insurance companies

## *THE MILITARY DEPARTMENT*

The Military Department is charged with the national defense of Switzerland It is responsible for the armed part of Switzerland's vaunted armed neutrality

The Swiss army is a remarkable organization It is an amateur army of the Swiss people, professional soldiers are kept at an absolute minimum Except for a permanent corps of military instructors, colonels in command of corps, and two special corps, one for aviation and the other for the protection of the national fortresses, there are no career soldiers in Switzerland

Military service is obligatory for all Swiss males from the age of twenty to the age of forty-eight It is voluntary for other men and for women Women who choose to serve are given noncombatant service In this way the Swiss army remains really a people's army and the antagonisms which so easily arise between soldier and civilian or between the professional soldier and the amateur recruit are kept at a minimum

The Swiss soldier is supplied with his arms and his uniform These he keeps with him even when not on active duty, although they remain the property of the government until he reaches retirement age, when they become the ex-soldier's property Each year his gun is inspected and he is fined or it is taken away from him if it is not kept in good condition He is also fined if he loses the gun

The story of the Swiss soldier and his gun is a basic one for an understanding of Swiss democracy The establishment of a tyrannical government is

difficult, not to say perilous, when the prospective tyrant is quite aware that every able-bodied subject has at hand a gun It speaks well also for the members of the Swiss government that they can trust the people, armed as they are, and do not fear for their own skins And it speaks eloquently for the Swiss people, who have known that the importance of their guns lies not in their promiscuous use, which in fact would defeat their purpose, but rather in the possibility of their use should the occasion arise Just as Swiss neutrality is an armed neutrality and foreign enemies are restrained from invading Switzerland not only by the peaceful intent of the Swiss but also by their arms, so Switzerland is an armed democracy, and the Swiss government vis-à-vis the people is in much the same position as the foreign power Against foreign or domestic tyrants the Swiss are prepared to fight for their freedom

The Swiss army is divided into three categories by age The *élite* is composed of the soldiers from twenty to thirty-two years of age, the *Landwehr*, of those from thirty-three to forty, and the *Landsturm* of those from forty-one to forty-eight Military training consists of a period of training lasting 116 days In addition to this the *élite* is subject to an annual twenty-eight-day refresher course, and the *Landwehr* infantry to a biennial refresher course of the same duration

Very few Swiss men are exempted from military service The exceptions include members of Parliament and of the clergy, as well as prison wardens and guards, customs guards, police, and certain transport workers

Other Swiss who do not want to serve in the army must pay a special tax of six francs plus 15 percent of their capital and 1.5 percent of their net income The full rate is to be paid for each year of service missed in the *élite*, half-rate is paid for the years missed in the *Landwehr*, and a quarter-rate is paid for the years missed in the *Landsturm* This tax is sufficiently stiff to be a deterrent to slackers but actually many Swiss enjoy their three-weeks annual paid "vacation," which is usually passed in the country with plenty of food and exercise

## *FINANCE DEPARTMENT*

The Finance Department is charged with the administration of the public finances

The Swiss tax structure is a complicated one, as would be expected in a federated republic Certain taxes are exclusively federal, others exclusively cantonal, and others mixed Originally the federal government had little taxing power, and before 1848 the cantons had to make grants to it to defray its expenses Now it is quite the other way and the federal government has seen fit increasingly to help the cantons perform certain necessary services entrusted to them by grants-in-aid, consisting essentially of funds collected through the federal taxing power

A few sources of tax income are the exclusive prerogative of the federal

government Of these, by far the most important is the customs In the good old days before the First World War the Swiss federal government practically supported itself by this single source of revenue Other exclusive sources of federal income include the profits from the various communications services and the gunpowder monopoly

In a country so far from self-sufficient as is Switzerland, the control of the customs is a large and important undertaking Besides the custom houses at all the frontier roads, there are supplementary custom houses in the principal railroad stations in the interior and at the airports The Swiss policy is to tax rather heavily those products which are in competition with Swiss products and to tax lightly the raw materials necessary for the products Switzerland in turn might be able to export Generally the Swiss is a protectionist rather than a free-trade economy

The proceeds from many taxes are shared between the federal government and the cantons Included among the revenues so divided are the military tax (divided 50-50), the stamp tax on official documents (80-20), and taxes on tobacco and wines The duty on imported liquors and the tax on native liquors are shared with the cantons with the proviso that they spend 10 percent of the gross on combating alcoholism A percentage of the profits of the National Bank is also given to the cantons The proceeds derived from traveling salesmen's licenses and other commercial taxes and fines are shared with the cantons, as are the proceeds from the gasoline taxes

The principal source of revenue for the cantons is the tax on incomes and property All cantons have a tax of this kind The majority of cantons assess a general property tax and a tax on the income from labor, the minority assess a tax on total income and a supplementary tax on property (Urban Basel, Zurich, Lucerne, Schaffhausen, and Geneva, to a certain degree Solothurn, Uri, St Gallen, and Thurgau) Bern has a special system of its own, which favors agricultural revenue In 1930 these taxes accounted for over two-thirds of total revenues of the Swiss cantons [4] Other sources of revenue were the automobile tax (including carriages and bicycles), inheritance and gift taxes, sales taxes, inn taxes, water rights and water concessions, fines, capitation taxes, amusement taxes, marketing taxes, dog licenses, hunting licenses, and fishing licenses

Besides the above-mentioned contributions which the federal government makes to the canton's finances, the latter benefit from various grants-in-aid, many of which have been mentioned in earlier pages These moneys come out of general public funds and must be spent by the cantons for the specific purposes designated by the federal government Agriculture, education, public highways, public health, military training, forestry, protection of wild life,

[4] Paul Guggenheim, "Les Finances," in H Lévy Ullmann and B Mirkine-Guetzévitch, *La Vie Juridique des Peuples VI Suisse* (Paris, 1935), p. 87

and fairs are among the objects for which the federal government gives such grants

Other possible sources of revenue come from the business enterprises owned and operated by the federal or the cantonal governments The federal railway system, by far the most important of these business enterprises, however, loses heavily

This cursory glance at the tax system discloses the vast control exercised by the federal government over the cantons by means of the grant-in-aid As in the American case this control is not provided for in the constitution The unitarians, of course, look upon the development with equanimity, but the federalists clamor for a return to cantonal economy and would rather see the cantons raising directly a larger portion of the money they spend

Besides the functions already mentioned the Finance Department performs several other duties It is in charge of the Mint, the National Bank, Customs, the Alcoholic Beverages Office, the Wheat Office, and the Bureau of Weights and Measures The federal government has a monopoly of the privilege of minting the national currency At the present time Swiss money has the longest record of approximate stability of any European currency, and today one finds in circulation coins minted in the last century Before the First World War, Switzerland belonged to an international union composed of France, Belgium, Italy, and other countries that agreed to a common gold par for their currencies, but only Switzerland has been able to keep anything like the par The Swiss finally were forced to debase their own currency, but they did this to so small a degree that between the wars the Swiss franc rose in value in relation to the dollar and has maintained its relatively higher value to the present

The National Bank of Switzerland was founded in 1905 The confederation has control over the administration of the bank and over the nomination of its directors, but it owns none of its stock Originally, two-thirds of the stock was held by the cantons and probably still is The other one-third is held by private investors, who by law must be Swiss citizens Dividends are limited by law to 5 percent The organization of the bank is similar to the British type of government-controlled business known as the public utility trust (e g , the British Broadcasting Company)

The importation and the manufacture of alcoholic beverages is a monopoly of the confederation, which also controls their sale Drunkenness is not a serious problem in Switzerland, but by such a moderate people any drunkenness is frowned on and at the same time prohibition would seem a denial of liberty By the creation of this monopoly and by the government control over the sale of distilled liquors, the Swiss are attempting to reach a compromise solution to the problem

The confederation is empowered by Article 23 bis of its constitution to provide a grain reserve within the country This function is carried out by the

Wheat Office, which buys and stores domestic and foreign grain The purpose of this procedure is to insure the Swiss people against hunger brought about by years of poor crops or by wars, which may drastically reduce imports for a period of years

The Bureau of Weights and Measures is empowered to standardize weights and measures throughout the confederation The metric system is used for weights and measures and the centigrade system is used for temperatures As in so many other cases, here too the federal government's functions are limited to surveillance and the cantons are charged with the actual enforcement

## *DEPARTMENT OF PUBLIC ECONOMY*

The Department of Public Economy is primarily concerned with four major activities labor and industry, commerce, agriculture, and social insurance

Although the full name of the industry and labor division is *Division de l'industrie des arts et du travail*, it is principally concerned with labor

Labor legislation in Switzerland got a head start in the nineteenth century in some of the German Protestant cantons One of the first moves was to try to put an end to the exploitation of child labor The first canton to take such action was Zurich, which in 1815 forbade the employment of children under nine years of age and laid down maximum hours of fourteen a day for children under sixteen Soon afterward the small canton of Glarus took the lead in labor legislation This canton had developed a prosperous textile industry specializing in printed cotton In 1824 Glarus forbade night work as a fire prevention measure Twenty-two years later the regulation was rescinded and replaced by another which set the maximum hours to be worked in any day at thirteen This measure is described by an official publication of the Swiss trade unions as "the first piece of protective labor legislation in the world to apply to adult male as well as to all other workers [5] In 1877 a federal Factory Act reduced the maximum hours to eleven

In 1900 the Swiss made the first move toward an international labor organization with the opening of the International Labor Office at Basel This was a forerunner to the International Labor Office established at Geneva in 1919 under the peace treaty

The forty-eight-hour week was established by law in a 1919 act, although it was already the generally accepted practice Exceptions to this rule are made upon application to the industrial division of the Department of Public Economy Generally day workers must be employed only between five in the morning and eight in the evening during the winter All workers have either an hour off in the middle of the day or two half-hour periods of rest

[5] Eduard Weckerle, *The Trade Unions in Switzerland* (Bern, 1947), p 47

during the day's work, and the work schedule must be so arranged that the workers have twelve consecutive hours off at night Ordinarily holidays and Sundays are days of rest The holidays, however, are set by the cantons Protestant Vaud has the fewest (four) and Catholic Appenzell Interior Rhodes has the most (nine). Where it is not possible to grant workers every Sunday off, all must have one day a week in which they do not work and be permitted to attend divine service if the spirit so moves them In 1938 a further federal provision raised the minimum age for children to fifteen

The Swiss Federation of Trade Unions was founded in 1881 and reorganized in 1902 Its membership is now over 300,000 Like most of the other large unions, it has been affiliated with the World Federation of Trade Unions There are also several smaller unions in Switzerland A separate Catholic Federation of Trade Unions exists, which in 1945 had a membership of under 50,000, and there is a Protestant one with over 10,000 members Some 90,000 public servants have joined the Public Services Federation, which was founded in 1903 About half of its members work for the state railways There is also a white-collar workers' organization whose membership in 1945 was 67,561

Switzerland has met the dilemma of the labor relations of the civil servant by enacting a statute which regulates the hiring, duties, disciplinary procedure, salaries and bonuses, vacations, social insurance, etc, of federal civil servants (law of June 30, 1927) Swiss civil servants are allowed to organize but not to strike

Switzerland also has enacted factory legislation in the interest of health and safety Most of these laws are federal and they include insurance against industrial accidents and occupational diseases The cantons have a system of factory inspectors, who are advised by a special agency created for the purpose as to health and safety measures to be established in the factories Machines must be constructed and used in a manner that will protect the health and safety of the workers, and if food and lodging are supplied by management, the former must be sufficiently nourishing and the latter sufficiently clean

Switzerland permits both private and public employment agencies The private ones, however, are under government control in order to protect the unemployed from exploitation by the agencies The public agencies are under the direct control of the federal government and are free Generally industrial workers use the government agencies, and domestic servants, governesses, and so forth use the private agencies [6]

A peculiarity of Swiss labor law is that married women are placed in the same disability as minors with respect to entering into labor contracts It is

[6] Much of the detailed information for this section is taken from Robert Piccard, "Le Travail et Les Assurances Sociales," in H Lévy Ullmann and B Mirkine-Guetzévitch, *op cit*, pp 269-279

necessary in the former case to get the permission of the husband and in the latter case that of the parent or guardian

Federal and cantonal law place different limitations on work, excluding women and children from certain types of employment Special provisions are made for pregnant women, and mothers have a right to from four to eight weeks' vacation after childbirth

There is also a federal law on apprenticeship designed to protect the apprentice from exploitation on the part of the master and to assure that he receives proper training, that his physical needs are cared for, and that he lives in decent moral surroundings

The commercial division is primarily interested in the protection of Swiss commercial interests abroad, and for this reason it was originally part of the Foreign Affairs Department and was only moved over to the Department of Public Economy in 1917 This section also grants licenses to traveling salesmen

The agricultural division of the Department of Public Economy is limited in its scope by the fact that the federal constitution gives the federal government little control over this important field of economic activity Because of their vital importance, however, the federal government has not remained aloof from the problems of this sector In fact, agriculture is heavily subsidized by the federal government, in an effort both to render the country more nearly self-sufficient and to increase exports of livestock and dairy products The federal government maintains several agricultural experiment stations of various types

The social insurance division is concerned with the administration of the various social security laws Some of these laws set up agencies directly administered by the government Others give the government supervision over existing private agencies In Switzerland health insurance is optional and is directly administered by some thousand mutual insurance companies[1] The federal government, however, has considerable control over them through the subsidies it gives them if they meet its requirements These mutual associations often limit membership by profession, religion, or politics Frequently they also have a residence requirement When the insured moves to another district, however, the federal government requires an association in the new city to take him on without an entrance premium, provided he requests admission within three months of his arrival This requirement does not force an association based on religious or political faiths to take persons of other persuasions Usually the associations do not pay indemnities in case of accidents or of illness which can be attributed to any fault of the insured The federal government stipulates, however, that pregnancy should be classed

[1] For an account of the insurance service of the Swiss labor union see Jean Mori, "La Mutualité dans les Syndicats," in *La Susse du Travail* (Zürich, 1948), pp 124-140

neither as an accident nor as the fault of the insured, even if the latter is unmarried [8]

Either payments are made in cash to the insured or medical expenses are paid directly to the doctors and druggists In the latter case the insured has the right to select his own doctor and druggist, but the government requires that the men chosen have federal certificates permitting them to practice their respective professions At the present time something like half the population of Switzerland carries sickness insurance No person may be insured simultaneously by more than two associations

Unlike sickness insurance, accident insurance is compulsory, at least for certain categories of workers The cost is borne in part by management and in part by the government, the worker pays nothing In case of accident or occupational disease, the worker is paid his medical expenses and 80 percent of the wages he loses In case of death of an insured, his heirs are reimbursed for his funeral expense up to forty francs (eleven dollars) and 60 percent of his annual wage or salary, with a limit to the former of twenty-one francs a day and of the latter of 6000 francs a year This insurance system is directly administered by the federal government, which set up the original capital to found the institution It is not administered as is the sickness insurance, by private mutual associations

By a constitutional amendment voted December 6, 1925, the federal government is authorized to establish a pension plan for old-age benefits A law to put in effect such a system, however, was voted down by a referendum in 1931, and it was not until July 6, 1947, that the Swiss people accepted a law implementing the constitutional amendment they had voted twenty-two years previously The new federal system went into effect January 1, 1948 Previous to that there were old-age pensions established in certain cantons, notably Glarus, where they had been obligatory since 1816 French Protestant cantons like Vaud and Neuchâtel subsidized voluntary pension plans, and the Catholic cantons, if they did anything, were content to contribute to the support of private institutions carrying on this work

The new federal law is one of the most inclusive of its kind in existence It is obligatory for all persons, except foreign diplomats, who live in Switzerland, and for all Swiss working for Swiss firms abroad It is optional for other Swiss who reside abroad and who are under thirty when they apply Non-Swiss citizens, subjects of countries that do not afford similar rights to Swiss subjects, will be paid their pensions only if they have paid premiums for ten years and continue to reside in Switzerland

Three different types of pensions are granted for old age, for widowhood, and for orphans Pension rates depend on pension payments For a single old person they range from 480 to 1500 francs a year and will be paid to all

[8] Piccard, *op cit*, pp 282-283

persons over sixty-five, regardless of need A married couple (man over sixty-five, wife over sixty) will receive from 770 to 2400 francs Widows over forty or with children also receive pensions, and similar treatment is accorded divorced women who are receiving alimony when their former husbands die Orphans receive a pension until they are eighteen (twenty if they remain students or apprentices), and a smaller sum is paid to children whose mother is living but who have lost their father

Ordinary payments are divided into two categories complete payments, made to persons who have paid contributions for at least twenty years, and partial payments, made to persons who have paid contributions from one to nineteen years These payments are made regardless of need

This huge system of social insurance is financed in part by the insured persons—that is, the entire population—directly, and in part by subsidies from the federal and cantonal governments The people make their contributions through taxes Wages and salaries are taxed 2 percent and independent workers are taxed 4 percent Employers also pay a 2 percent tax on all wages and salaries Even paupers must pay a franc a month, which they receive from the commune responsible for their maintenance

For the first twenty years the federal government will pay two-thirds and the cantons one-third of the contributions made by the government After that no provision has been made For this period the confederation will be responsible for raising over 100,000,000 francs, most of which is to come from the tobacco tax and the liquor tax The contributions of the cantons will be allotted according to the percentage of pensions paid out to the canton

Unemployment insurance was set up under a 1924 law It is not obligatory[9] and functions in the same general way as the sickness insurance in that the government merely subsidizes already existing mutual associations There is a great shortage of man power in Switzerland and the number of employable unemployed is very low, so the problem of unemployment insurance for the moment is fortunately merely an academic one

## *THE POSTAL AND RAILROAD DEPARTMENT*

The seventh and last of the federal departments is concerned with transportation and communication facilities There is a Transportation Division, an Air Office, a Postal Telegraph Administration, a Water Service, and an Office of Electrical Economy In 1944 the administration of the Swiss railroads was taken out of the department's hands and given to a quasi-autonomous organization, whose directors are appointed by the government

[9] By cantonal law in Ticino it is obligatory for all workers receiving 6000 francs a year or less, except career civil servants See Domenico Visani, "La legislazione sociale nel Ticino," in *La Suisse du Travail* (Zurich, 1948), p 152

The Transportation Division is concerned with construction work and with rates for railroads and ships as well as tramways All franchises for such public transportation are granted by this office

The Air Office has control over airplane transportation In Switzerland, as in most of the other European countries, air passenger service has become the monopoly of a single company either entirely owned by the government or well subsidized In the case of Switzerland the company is called Air Suisse and has a better than average reputation among travelers for courteous service and safety

Since 1848 the federal government has had exclusive control over the postal service, with the advent of the telephone and the telegraph it has also assumed a monopoly over these services The postal service is one of the Swiss government's largest businesses and one which regularly shows a profit The Water Service is empowered to supervise navigation Although Switzerland is a landlocked country, it is replete with lakes and lake steamers

The Office of Electrical Economy is interested in the exploitation of Switzerland's hydroelectric power This power is Switzerland's greatest natural resource During the war, however, the shutdown in the importation of coal forced much of Swiss industry to convert from coal to electricity and caused many families to turn to electricity for heating and cooking, so there is now a shortage of electrical power in the country Now that the war is over additional hydroelectric plants are being built, and after a time Switzerland should again have all the electrical power she needs and be able to sell excess power to Italy as she did before the war

## *THE SWISS RAILROADS*

The administration of the Swiss railroads is in an uncomfortable position These railroads were originally built by private capital, but the tremendous cost of boring through or climbing up the mountains made it difficult for them immediately to become a profitable investment The poor economic condition of the railroads reduced their efficiency and caused their service to deteriorate Consequently, at the turn of the century the federal government began buying up the private railways after submitting the proposal to the people via the referendum For many years now the railroads have shown an operating surplus under government management, but rarely have they been able to show a net profit, so heavy is the debt they owe on their purchase price The federal government has recently assumed a large portion of this debt, and with that millstone off their necks (a question of 1,300,000,000 francs) it is hoped the railroads will cease to flounder in a financial quagmire

An interesting example of the greater present-day proficiency in nationalization can be had by comparing the old-fashioned method the Swiss used in acquiring the railways with the practice followed by the present Labour

government in England In the British system no capital changes hands The private stockholders merely surrender their stock and are reimbursed with a similar amount of nonvoting government stock in the new nationalized industry Although this stock bears no voting privileges (which are retained by the government), it does bear interest, and thus the original owners are compensated by dividends to be drawn from the profits of the industry and the government need not go into debt in order to effect the nationalization Such a system would have saved the Swiss many headaches

Since it is a federal government, like our own, the Swiss administration must necessarily lack the clarity on paper that distinguishes the highly centralized French administration and must instead appear to the student rather a haphazard amalgamation of heterogeneous elements, lacking both logic and order The purpose of administration, however, is not the perfection of a paper logic Its duty is to serve the public efficiently and at the same time (in a democracy at least) submit to democratic controls Judged by these criteria the Swiss administration is admirable

It will be noted that some of the same trends are apparent in the Swiss and the American administrations, notably the grant-in-aid and the confused tax structure Also both countries rely on an essentially amateur army although ours seems to be getting increasingly bureaucratized and professionalized and theirs is based on a permanent and universal conscription

The material presented in this chapter does not give a complete picture of the Swiss administration, but it does relate all its essential functions and shows how as in our own case the new functions as they appear become grafted on the existing institutions often with little consideration of compatibility It also shows how a system originally designed to give the cantons almost complete autonomy is now used by a government which is committed gradually but increasingly to subjecting the cantons to federal authority

# Chapter 29

# The Courts

## THE FEDERAL COURT

THE Federal Court *(Tribunal féderal)* is more like a system of courts than like a single court Its members are elected by the *Assemblée fédérale* (Art 107) Any Swiss citizen eligible for the *Conseil national* may be elected judge of the Federal Court (Art 108), but here again the practice has been to elect only the better jurists, and to reelect them at the termination of their six-year terms

The Federal Court meets in Lausanne and not in Bern, which is the seat of the *Assemblée fédérale* and the *Conseil fédéral* This is an act of courtesy to the French-speaking Swiss and is similar to the division made in Bolivia, where the seat of the high court is Sucre although the capital is at La Paz

This body, originally composed of only nine men, now numbers twenty-six judges and nine supplementary judges For the period 1943-1948 it was composed of seventeen German-speaking judges, seven French, and two Italian Of the supplementary judges six had German for their native language, two French, and one Italian

Rarely does the entire court meet together Usually the judges are divided into various sections to carry out the varying work assigned the court

The sections include (1) a public and administrative law section, (2) two civil law sections, (3) a chamber for internal administrative claims (claims of government employees against the government), (4) a chamber for bankruptcy, (5) a chamber for accusation *(Chambre d'accusation)*, which performs the function of an American grand jury, (6) the Federal Penal Court, (7) the Federal Assizes, and (8) a court of criminal cassation Three to nine judges sit on the bench, depending on the type of case heard

The public and administrative law section has the following jurisdiction

1 In constitutional law
   a Conflicts of competence between federal and cantonal authorities
   b Questions of public law between the cantons
   c *Recours de droit public*, brought by private citizens [1]

[1] See section on administrative law, infra

2 In administrative law in the strict sense
*Recours de droit administratif* [2]
The civil sections have the following jurisdiction
1 Primary jurisdiction
a Suits between the confederation and the cantons
b Suits for more than 4000 francs by individuals or corporations against the confederation
c Suits between cantons
d Suits for more than 4000 francs by individuals or corporations against cantons
e Cases involving persons without citizenship *(Heimatlosen, apatrides, apolidi)*
f. Cases over which the civil sections of Federal Court have been given jurisdiction by the cantonal constitutions or legislation (with the approval of the *Assemblée fédérale)*
g Suits involving over 10,000 francs between individuals which both parties voluntarily refer to the Federal Court
h Suits involving public service over which the Federal Court has explicitly been granted jurisdiction
2 Appellate jurisdiction
a *Recours en réforme*, an appeal against a decision of a cantonal court when it was applying federal law and the value of the dispute exceeded 4000 francs
b *Recours en droit civil*, an appeal against decisions of the cantonal courts in which it is claimed there was a misinterpretation of federal law or misapplication of cantonal law when federal law should have been applied

With respect to its appellate jurisdiction the Federal Court is held to accept the facts as determined by the cantonal courts unless they cannot reasonably be based on the evidence

### The Criminal Jurisdiction of the Federal Court

The criminal jurisdiction of the Federal Court has been greatly increased with the advent of the new Swiss criminal code

According to the new code the original jurisdiction of the Federal Court is divided between a *Chambre d'accusation*, which indicts, a federal Criminal Court, which hears the lesser cases, and a federal Court of Assizes, which hears the major felonies Appeals are heard by the Court of Criminal Cassation

The only juridical matters under federal jurisdiction which are not heard by some section of the Federal Court are the appeals on insurance cases,

[2] See section on administrative law, infra

concerning sickness, accident, or military insurance, which are heard by a special and independent Insurance Court *(Tribunal fédéral des assurances)* also located at Lausanne A final exception is for certain appeals in administrative law, which may be taken to the *Conseil fédéral* or the *Assemblée fédérale*

## *THE CANTONAL COURTS*

Although the court systems of the cantons vary in detail, they follow a general pattern The lowest civil courts are the justices of the peace, who like their French brethren are mainly conciliators, although they have jurisdiction over minor cases which are not amenable to conciliation There is usually a justice of the peace in each commune The large communes are likely to have a more elaborate court Next in importance is the district tribunal, or *pretore* This is often a one-man court At the top of the hierarchy is the cantonal court *(tribunal cantonal, Kantongericht, Obergericht)* There are also several grades of criminal courts, they may or may not be the same bodies which hear civil cases One of the simpler systems is set up by the constitution of Valais, which establishes a *tribunal cantonal* and four *tribunaux d'arrondissement* (for judicial purposes the canton is divided territorially into four *arrondissements)*, each of which has a civil section and two criminal sections The competence of the criminal sections is determined according to the seriousness of the offense imputed to the accused (the lower criminal court is called *tribunal correctionnel*, and the higher, *tribunal criminel)* At the lowest rung of the ladder come the justices of the peace, of whom there is one in every commune, or *cercle* A *cercle* is a group of small communes united for judicial purposes (Arts 62-63) Further articles permit the establishment of commercial courts and *conseils de prud'hommes*, as well as an administrative court, which latter, however, is merely a section of the cantonal court (Arts 64-65) Ticino has a more complicated system of regular courts This canton has justices of the peace, *pretori* (who judge singly), an appellate court *(tribunale di appello)* of seven members, criminal assizes, correctional assizes, pretorial assizes, and a criminal court of cassation There is a justice of the peace for every circle, and a *pretore* for every district The criminal court of assizes is composed of the criminal chamber of the appellate court plus a jury The correctional court of assizes is composed of a single judge of the criminal chamber of the appellate court plus a jury, and the pretorial assizes are composed of a *pretore* and a jury The appellate court is divided into sections for civil and for criminal appeals as well as into civil and criminal courts of cassation There are also *collegi di probiviri* for labor disputes [3]

[3] Constitution of Ticino, Arts 39-43, 47, N Jaeger, *Lezioni di diritto svizzero* (Milan, 1944), pp 115-117

## *THE LEGAL SYSTEM*

The Swiss legal system, like the French and Italian and unlike the Anglo-American, is codified and based on Roman law Codified law is law written in codes, or "written" law, as distinguished from the "unwritten" common law of the Anglo-American tradition, which is actually written in the decisions of previous judges

The basic distinction, then, is not one of written and unwritten law, but of whether or not precedent must be followed The Anglo-American judge is bound by precedent and his decision is reversible on appeal if it is not in accordance with precedent The continental judge, on the other hand, is bound only by the relatively succinct codes, which often he can interpret rather freely When in need of advice he seeks the authority of law professors' treatises rather than the dicta of previous judges, each of whom was busy adjusting the law to a particular set of facts always different in some pertinent point from those with which he is confronted

It is, of course, not possible here to give a summary of the Swiss codes, even in outline form A few laws, however, seem worthy of mention, sometimes just because of their differences from but often because of their apparent superiority to our own laws

## *CIVIL LAW*

Swiss civil law was codified by the federal government under a constitutional grant of power of November 13, 1898, but it was not until the first of January, 1912, that the new civil code went into effect Previous to 1912 each Swiss canton had its own civil code as well as its criminal code and codes of procedure The Swiss civil code has been so successful that almost twenty years later it was selected by Mustafa Kemal from among the European codes as the one most suitable for the modernization of Turkey

Even before the civil code was put into effect, however, the federal government had legislated on certain matters of particular importance In 1874 it had been granted the power to issue unified laws on legal capacity, on commercial law, bankruptcy law, and the law copyrights (Art 64) [4] Thus it was possible to put into effect a federal law on marriage in 1874, one on legal capacity in 1881, and one on bankruptcy in 1889

In Switzerland marriage is a civil affair, a religious marriage has no legal validity A religious service is permitted, but it must follow, not precede, the civil rite It takes ten days to get married—in the sense that publication of the intent to marry must be made ten days before the civil rite is performed

Divorce is rather simple It is acquired through a court judgment There are two types of grounds for divorce, that is, the actions motivating the

[4] Patents were added in 1887 and all civil law was added in 1898

divorce may be specific or undetermined The specific causes are adultery, attempted homicide of spouse, torture or serious injury, infamous crimes or dishonoring conduct of spouse, mental illness, and abandonment The undetermined causes can be roughly summed up in the American expressions *incompatibility* and *mental cruelty* It is necessary to prove existence of a specific charge, which is generally a matter of objective fact In the other case, it is a matter of discretion of the judge, and consequently his religious prejudices and those of the community in which he lives often play a determining part in his decision The result of all this is that with respect to divorce law there really does not exist in Switzerland that uniformity of practice among the cantons which it was the purpose of the federal legislation to effectuate

A spouse who does not wish a divorce can ask for a separation instead This separation may be for a definite period of time or an indefinite one A judge cannot divorce couples who seek a separation, but he can separate couples who seek a divorce

Under Swiss law the husband still has some power over his wife He is *primus inter pares*, in that, when a choice has to be made between his will and that of his wife, his takes precedence, and if the wife does not like it she can seek a divorce or a separation The wife also has recourse in extreme cases to the courts for injunctive action Swiss practice, however, has disregarded the unpleasant Germanic aspects of such a system Under Swiss law the wife is in charge of the house, and about the only powers the husband exercises over his wife that he could not exercise in the United States are those of forbidding her to work outside of the house and to act in public in a manner which dishonors him

The legal capacity of the Swiss woman is in no way impaired by her marriage She may dispose of her property as she sees fit In practice, it is common for husband and wife to unite their property, and in this case the husband can dispose of their common property according to his judgment The act of creating a union of property, however, is a voluntary one on the part of the wife, if she does not care to do it she is in no way obliged to do so under Swiss law

Unlike the power of the husband over the wife, the power of the father over the child is a very real thing It will not be interfered with by the Swiss law so long as the father also maintains his obligation toward the child For instance, he is free to educate the child in the manner he prefers, but he has the obligation to educate him in some manner In cases of grave negligence or grave abuse of authority, the child can be taken from the control of the father The mother, of course, also has authority over the child, approximately equal to that of the father, although at law when there is a dispute between the parents over the care of the child the father's will prevails With respect to religion the Swiss law provides that the father has the right to bring up the

child in the confession of his choosing, but that at the age of sixteen the child may decide for himself In practice, few children desert the religion of their parents

Children born of married couples during marriage or within the first three hundred days of divorce are presumed legitimate and will be so classified unless the father disavows the child within three months of its birth A child born out of wedlock is legitimized by the subsequent marriage of its parents A child born of an engaged couple prevented from marrying by the death or legal incapacity of one of the parties can be legitimized by a judge on the demand of the other parent, or eventually of the child itself Adoption is permitted only to persons over forty years of age who have no legitimate descendants The adopted child, however, does not receive the communal citizenship of his father, nor do the laws of inheritance give the adopted child the same rights enjoyed by natural children

Unlike the situation in France and Italy, where the mother of an illegitimate child has no legal right to establish the identity of the child's father, in Switzerland she can require the father to contribute to the child's upkeep The father, however, may, if he chooses, recognize the child voluntarily, and in this case the child acquires the right to his name It is not necessary, as it is in Italy, for a man to get the consent of his wife before he recognizes any of his illegitimate offspring [5]

Another interesting provision concerns the law of patents In Switzerland an invention may be patented for a period of fifteen years (in the United States it is seventeen), but for each of these years the patent must be renewed and a tax paid on it The original application and the tax for the first year are relatively small, but each year the tax increases slightly until for the fifteenth year it is 160 francs It is not sufficient, however, just to pay the tax, it is necessary to make industrial use of the patent The purpose of this provision is to protect the public against the type of situation which occurs in the United States when a corporation whose business would be adversely affected by a new patent device buys up the patent, not for use but to prevent use by competitors, and thus preserves the market in its former condition, to the detriment of the consumer [6]

Another point in which Swiss law appears to have progressed beyond our own is in the difficult question of establishing title to real property In the United States, the problem of clearing title is often a costly and prolonged one If a single deed is lost from the original grant to the transfer to the present claimant, countless difficulties may arise Switzerland eliminates many of these difficulties by the maintenance of a *registre foncier*, an official register of all the land in the country and the owners of property rights thereto Just

[5] See Charles Wieland, "La Famille," in H Lévy Ullmann and B Mirkine-Guetzévitch, *La Vie Juridique des Peuples VI Suisse* (Paris, 1935), pp 237-254

[6] See Benigne Mentha, "Droits Intellectuals," in *ibid*, pp 255-258

as some patent lawyers in America would be out of jobs if this country should adopt a system of patent law similar to that of Switzerland, so other lawyers would no longer be assiduously striving to clear a murky title were the Swiss system of the *registre foncier* to be adopted here

Another matter which merits a moment's consideration is the problem of wills and inheritance The Swiss system is a compromise between allowing a man to dispose of his property at will and obliging him to pass it on at his death to his kin In Switzerland, part of a man's estate must be divided among certain of his kin if he has surviving kin of the stipulated categories, and the rest of his estate he has liberty to dispose of as he pleases The portion over which he has no control is called the *réserve* and the persons to whom this is destined are called the *réservataires* If the deceased has direct descendants the *réserve* amounts to two-thirds of his estate, and his descendants are the *réservataires* If he has no descendants and is survived by one or both of his parents, the parent or parents are the *réservataires*, and the *réserve* amounts to one-half his estate The spouse also has right both as an outright heir and as the receiver of income from property The intent of the Swiss law with respect to the surviving spouse is that he or she should enjoy approximately the same income as before the death of the deceased When the deceased is survived by no such kin, there is no *réserve* and consequently there are no *réservataires*

When no will is made, the property is divided between all the kin who fall within the kin category closest to the deceased The first category consists of the descendants, the second of the parents and their descendants, and the third of the grandparents and their descendants The rights of the surviving spouse are protected in this instance much as they are when a will is made

A limitation to the continued division of property among heirs with equal rights is made with respect to small farms, as in parts of Switzerland the agricultural economy is already adversely affected by the decimation of the farms In cases in which farm units otherwise would be divided into unproductive parcels of land, the farm can be turned over to a single heir, who then will be required to pay off the other heirs with the proceeds from the land A similar system has recently been adopted by the French to offset the same tendency toward decimation which has been taking place in French agricultural communities [7]

## *CRIMINAL LAW*

Jurisdiction over criminal law was granted the federal government by a constitutional amendment passed November 13, 1898, but the Swiss are a leisurely people who believe haste makes waste and, when confronted with so serious and difficult a task as that of coordinating the various criminal codes of the twenty-five cantons and half-cantons, they were willing to take forty

[7] See Albert Richard, "La Famille, la Propriété, le Travail," in *ibid*, pp 179-236

years to do it But finally on July 3, 1938, the new criminal code was submitted to and accepted by the people and the cantons The new code, however, did not go into effect until January 1, 1942

One of the achievements of the federal criminal code was to abolish the death penalty, which was still in force in some of the cantons It is significant that this was accomplished in 1937, a time when in neighboring Germany the ax was severing disloyal heads and in neighboring Italy the firing squads were becoming active It is also significant that some of the men in the Swiss federal council at that time are still serving their country in the same capacity while many of their erstwhile German and Italian colleagues are now either ignominiously dead or cowards in hiding

## *CIVIL PROCEDURE*

Each Swiss canton has its own code of civil procedure, and consequently there is little uniformity in this field Before the Federal Court in cases of original jurisdiction, the process is divided into two parts, the first of which takes place before a single judge, who receives the written pleadings of the parties and decides all controversial facts The second part of the trial is held before a panel of six judges At the conclusion of these hearings, in which the parties are given the opportunity to plead their cause, the judges immediately give their decision, each judge publicly expressing his opinion

In the case of appellate jurisdiction different procedures are used depending on the amount of money involved in the dispute Generally no new evidence or arguments are admitted, and decisions of the lower court with respect to facts can only be questioned on the grounds that the evidence presented there could not reasonably be interpreted as the court interpreted it When further proceedings are held to be necessary before the case can be settled, the Federal Court remands the case to the cantonal court whence it came

Of the cantonal codes of civil procedure, those most interesting to the student of government are found in some of the German cantons in the eastern part of Switzerland, as they have tended to preserve a traditional oral procedure quite different from that of the French cantons and France and Italy In these cantons there is an open trial, before the whole court The parties present their evidence and their arguments orally and the case is decided on the basis of the proceedings (The French and Italian systems are based on a lengthy procedure in which the opposing lawyers prepare and write copious legal documents which they pass to and fro between each other and the judge In Italy a simple civil case often takes two years to settle ) Appeals from these decisions are based primarily on the oral proceedings at the trial

Another interesting practice of these cantons is the *Rechtsbot*, which is used in Uri, Schwyz, Unterwalden, Glarus, Appenzell, and St Gallen This is an injunction which makes it possible to settle many civil suits by *ex parte*

proceedings The system works in the following manner The plaintiff requests the *Rechtsbot* from the judge, who, without further acquaintance with the case, issues the injunction It is effective, however, only if the person subjected to it makes no protest If he protests the trial proceeds in the ordinary way The *Rechtsbot* naturally works most successfully in the smaller cantons, where everyone knows almost everyone else and where the publication of the injunction in the official journal can hardly escape the immediate notice of the person affected [8]

Common to both civil and criminal procedure is the practice of having each judge give a separate opinion This privilege, which is traditional in common-law countries, is quite contrary to the general European practice, where unity and conformity are held in greater esteem than is the right of the individual freely to express his point of view It is significant that in democratic Switzerland the Anglo-American custom prevails and that there as here differences of opinion even on basic constitutional issues can be officially expressed without thereby endangering the continuity of the government or the people's confidence in that government

## *CRIMINAL PROCEDURE*

It is not possible here to go into the twenty-six different codes of criminal procedure for the cantons and the federal government, and only a sketch of the system can be given, but generally it can be said that in comparison with other continental democracies Switzerland is a good place in which to be arrested

Under the federal code arrests can be made only on a court order and only in case the suspect is considered likely either to flee before trial or to get in collusion with possible witnesses against him In the former case he may be released on bail at the discretion of the judge The warrant for the arrest must be in writing and must name the charge brought against the arrested person as well as the penalties for the commission of the alleged act The arrested person must be brought before the *juge d'instruction*, on the first workday after his arrest If he is to be held further, he must be given the reasons in writing The accused person always has the right to counsel, even if he cannot pay for counsel, he may waive this right and defend himself in all minor cases but if he is being tried before the Court of Assizes he must be represented by counsel

It is not the habit in Europe to give the accused the sporting chance which he is afforded in Anglo-American law, but in Switzerland he is generally better off than in other countries Geneva is one of the few cantons which grants the accused virtually equal rights with the state in the preliminary phases of the investigation In that canton the accused has the right to be

[8] See Nicola Jaeger, *op cit*, pp 123-130

informed of the preparation of the case against him and to cross-examine witnesses even during this preliminary phase

On the Continent generally criminal proceedings are more oral than civil cases, and Switzerland is not an exception to this practice According to the federal law, however, certain categories of persons cannot be forced to testify No close kin of the accused may be forced to testify against him, nor can a spouse, whether divorced or not Furthermore, priests, clergymen, lawyers, notaries, medical men, druggists, and midwives do not need to testify with regard to professional secrets Another provision releases government officials from giving away government secrets And finally, no one can be required to testify against himself

A provision of particular interest that is found in some of the cantonal codes of criminal procedure entitles arrested persons to damages in case nothing is proved against them and their arrest was not the result of a personal fault In this respect some of the Swiss cantons are a good step ahead of American procedure [9]

## *ADMINISTRATIVE LAW*

The Swiss do not follow the French theory of the complete separation of legislative, executive, and judicial powers which has made it necessary to set up a system of administrative courts within the administration and quite independent of the regular courts Furthermore, unlike France, Switzerland is not a country overrun with career civil servants Much of the administration, particularly in the smaller cantons, is carried out by amateurs, often elected by and generally personally known to their fellow citizens Living under such conditions has made the Swiss less needful of a system of administrative law

Consequently it is not surprising that there has been remarkably little to do in this field In most of the cantons cases which in France are of the exclusive competence of the administrative courts are heard in the ordinary courts in the ordinary manner The federal government and a few cantons [10] have set up so-called administrative courts which in fact are nothing but special sections of the ordinary courts, empowered to hear certain types of administrative cases and employ with respect to them a different type of procedure from that used in the ordinary civil case Only one canton, Bern, has set up an administrative court separate from both the administrative and the judicial systems

The ordinary procedure in Switzerland for the settlement of claims against the administration is the appeal to the hierarchically superior administrative unit When this recourse is fruitless, the plaintiff usually must turn to the ordinary courts In certain cases it is also possible to take the case before the

[9] *Ibid*, p 130

[10] Urban Basel, Aargau, and Valais

legislature, but this practice, which seems to stem from the hierarchically superior position of the legislature to the administration in Switzerland, is generally now in disuse

The competence of the regular courts in administrative matters varies in each of Switzerland's twenty-six jurisdictions If every court, however, assumed competence over the types of case any single court would hear, the Swiss people would be fairly well protected against the administration

This would be particularly true were one to include the power of the federal tribunal over administrative matters The competence of this court is restricted to two main types of action, the *recours de droit public* and the *recours de droit administratif*

The *recours de droit public* can be taken by anyone who claims that an act by a cantonal authority, whether it be legislative, administrative, or judicial, deprives him of a right guaranteed by either the federal constitution or that of the canton in question This *recours*, however, is possible only as a last resort, after all other legal steps have been taken in an effort to get justice in another way It is this provision which gives the Federal Court what power of judicial review it possesses

If this competence were to be construed strictly, the court would hear only cases directly involving the constitutionality of cantonal acts, and it would not consider itself competent to hear cases and nullify acts resulting from the misapplication of otherwise constitutional acts By an expansion of powers, however, which is not surprising to students of American constitutional law, the Swiss Federal Court has determined that, on the basis of the constitutional principle of the equality of citizens before the law, an arbitrary act by a cantonal authority can be declared unconstitutional and can therefore be annulled

The *recours de droit administratif* is a rather new action, established by the law of June 11, 1928 This action may be taken against claimed misapplication of certain federal laws, either by federal or by cantonal authorities It is permitted only in the specified cases enumerated in the law and may never be taken against an act of the *Conseil fédéral* but only against certain acts of the federal departments or of the cantons The same law allows pecuniary claims against the federal government in limited and specified instances

**Responsibility in Administrative Law**

According to the Swiss federal jurisprudence, the responsibility of the state is clearly recognized for all its activities under civil law (*Code Civil Suisse*, Art 55) This means that as an employer, owner of real property and the improvements thereon, or contractor the state is subject to the same law as a private citizen and is equally responsible before the ordinary courts As regards actions by its employees which interfere with the rights of third parties, the state is also responsible

When the state is acting in its public capacity, however, civil law does not apply In this case there is no responsibility unless the law specifically creates one Here in principle only the agent is liable for the damage done With respect to the federal government these cases are rare An example can be found in the law regulating claims against the army and the postal service, in which cases the government assumes the responsibility for damages caused by its agents

Although the federal government has been quite chary about admitting its own responsibility for the public law activities of its agents, it has been considerably more generous with cantonal funds and has decreed that whenever the cantonal authorities are acting as agents of the federal government for the performance of many public law activities, the cantons are responsible for damages whether or not they resulted from the fault of the agent

On the whole, the cantons have been liberal in their own legislation in this field, although the actual regulations differ considerably from canton to canton Neuchâtel and Vaud, following the French practice, have recognized the responsibility of the canton for any illicit act committed by one of its agents in the performance of his work In Schaffhausen only the canton is actionable by the third party, but the agent may in turn be sued by the canton In Fribourg and Thurgau the canton is liable only after the third party has failed to get satisfaction from the agent, and Bern and the two Basels give the third party the choice between holding the canton or the agent responsible In other instances (Uri, Solothurn, Grigioni, Valais) the cantons can be sued only when the agent is unable to pay damages Still other cantons (for the most part German Catholic ones) do not admit the principle of cantonal responsibility at all [11]

[11] See Roger Secretan, "Les Recours Contre la Puissance Publique," in Lévy Ullmann and Mirkine-Guetzevitch, *op cit*, pp 103-118

# Chapter 30

# *Conclusion*

IF SWITZERLAND is an anomaly in the present world, to many persons it has a greater interest than that occasioned by its peculiarities There are those who see in Switzerland much more than a quirk of fate which made a nation out of a people lacking a common language and a common religion They look on the miracle of Switzerland as a signpost by the stream of history, indicating the course we all must take if we wish to save ourselves and our civilization Viewed in this light, Switzerland ceases to be an object of study only for those who seek the exotic and the unusual, rather, the examination of the structure and function of its government becomes a serious concern to all of us If we follow this line of reasoning, Switzerland ceases to be an anomaly and becomes a prototype

In many respects the record of Switzerland is both an enviable and an admirable one By a firmly established and traditional policy of armed neutrality, Switzerland has enjoyed one of the longest periods of uninterrupted peace any European nation has ever known By the preservation of the *Landsgemeinde* and the introduction and frequent use of the initiative and the referendum, she has established one of the most efficient and democratic governments in the modern world Protestants and Catholics as well as Germans, French, and Italian-speaking peoples have learned to cooperate with each other with the help of a mutual tolerance few other nations have known how to instill in heterogeneous groups Illiteracy has been virtually abolished, and poverty is almost as rare as great wealth In a world made dizzy by insecurity and frenzied change, Switzerland is a solid rock of sobriety where values are stable, whether they be economic or ethical ones

Certainly Switzerland appears to have solved many of the most pressing problems facing the rest of the world today Certainly in many respects she is to be greatly envied The questions, then, are Can she be emulated as well, and should she? Fortunately for the present writer these are questions it is fit only to pose here An attempt to answer them would involve the reader in problems beyond the scope of a textbook, which is concerned primarily with giving the facts on which answers to such questions can later be based It is

only fair to point out, however, that the haven of peace and sobriety which the Swiss have created and to which they are so devoted is sometimes found by others to be a singularly empty place, lacking in profundity and devoid of those qualities which give life its richness and spiritual significance To such people the Swiss appear, perhaps unreasonably, as well-fed automatons among whom confessional and cultural divergences are overcome less by mutual tolerance than by a rigidly enforced insistence on mediocrity and materialism, euphemistically called practicality Many foreigners like Switzerland Some like the scenery and the sports Others like it for the business opportunities it affords Still others like the Swiss people, Swiss life, and what it stands for But there are also those who avoid Switzerland, who are stifled by what appears to them a dull and complacent mediocrity Such persons are happy when they cross the border into Italy, a war-torn land, with only an intermittently democratic history, which has frequently submitted to tyrants, where cooperation even among a people sharing the same language and religion is difficult, where paupers and illiterates abound, but where there is a beauty and exaltation of spirit the Swiss have not known Such people think of St Francis and of Dante, of Leonardo da Vinci and Christopher Columbus, of Giuseppe Verdi, Giuseppe Garibaldi, and Giuseppe Mazzini, and they wonder if Switzerland has not paid a high price for her peace of mind This point of view, like a minority report, must also be taken into consideration in evaluating the Swiss achievement

## TABLE 1 Language [1]

(Census of 1941)

| | Number | | | | | Proportion per Thousand | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | German | French | Italian | Romansh | Other Languages | German | French | Italian | Romansh | Other Languages |
| Zurich | 641,179 | 12,904 | 14,406 | 2,350 | 3,666 | 951 | 19 | 22 | 3 | 5 |
| Bern | 609,776 | 112,103 | 4,823 | 488 | 1,726 | 836 | 154 | 7 | 1 | 2 |
| Lucerne | 201,697 | 1,809 | 2,514 | 249 | 339 | 976 | 9 | 12 | 1 | 2 |
| Uri | 26,355 | 181 | 650 | 99 | 17 | 965 | 7 | 23 | 4 | 1 |
| Schwyz | 65,085 | 362 | 889 | 122 | 97 | 978 | 5 | 14 | 2 | 1 |
| Obwalden | 20,023 | 117 | 149 | 24 | 27 | 985 | 6 | 7 | 1 | 1 |
| Nidwalden | 17,055 | 115 | 146 | 15 | 17 | 983 | 7 | 8 | 1 | 1 |
| Glarus | 33,376 | 156 | 1,077 | 102 | 60 | 960 | 4 | 31 | 3 | 2 |
| Zug | 35,395 | 343 | 747 | 83 | 75 | 966 | 9 | 21 | 2 | 2 |
| Fribourg | 49,328 | 101,539 | 837 | 65 | 284 | 324 | 668 | 6 | 0 | 2 |
| Solothurn | 149,302 | 3,505 | 1,806 | 104 | 227 | 963 | 23 | 12 | 1 | 1 |
| Urban Basel | 159,553 | 6,192 | 3,022 | 323 | 871 | 939 | 36 | 18 | 2 | 5 |
| Rural Basel | 91,464 | 1,777 | 968 | 92 | 158 | 968 | 19 | 10 | 1 | 2 |
| Schaffhausen | 51,845 | 550 | 1,216 | 74 | 87 | 964 | 10 | 23 | 1 | 2 |
| Appenzell Ext Rhodes | 44,325 | 114 | 217 | 54 | 46 | 990 | 3 | 5 | 1 | 1 |
| Appenzell Int Rhodes | 13,335 | 13 | 24 | 7 | 4 | 996 | 1 | 2 | 1 | 0 |
| St Gallen | 280,064 | 1,271 | 3,524 | 831 | 511 | 929 | 4 | 12 | 3 | 2 |
| Grigioni | 70,421 | 693 | 16,438 | 40,187 | 508 | 549 | 6 | 128 | 313 | 4 |
| Aargau | 265,367 | 2,468 | 1,951 | 272 | 405 | 981 | 9 | 7 | 1 | 2 |
| Thurgau | 135,213 | 709 | 1,825 | 196 | 179 | 979 | 5 | 14 | 1 | 1 |
| Ticino | 13,209 | 1,736 | 146,136 | 199 | 602 | 81 | 11 | 903 | 1 | 4 |
| Vaud | 37,584 | 295,579 | 6,404 | 229 | 3,602 | 109 | 861 | 19 | 1 | 10 |
| Valais | 49,221 | 97,116 | 1,755 | 55 | 172 | 332 | 655 | 12 | 0 | 1 |
| Neuchâtel | 13,172 | 102,408 | 1,935 | 60 | 325 | 112 | 869 | 16 | 0 | 3 |
| Geneva | 23,716 | 140,909 | 7,071 | 176 | 2,983 | 136 | 806 | 40 | 1 | 17 |
| Switzerland | 3,097,060 | 884,669 | 220,530 | 46,456 | 16,988 | 726 | 207 | 52 | 11 | 4 |

[1] From *Annuaire Statistique de la Suisse* (Basel 1945)

## TABLE 2 Religion [2]

(Census of 1941)

| Cantons | Number | | | | Proportion per Thousand | | | |
|---|---|---|---|---|---|---|---|---|
| | Protestants | Catholics | Jews | Others | Protestants | Catholics | Jews | Others |
| Zurich | 502,501 | 156,077 | 6,457 | 9,470 | 745 | 231 | 10 | 14 |
| Bern | 625,110 | 99,133 | 1,433 | 3,240 | 858 | 136 | 2 | 4 |
| Lucerne | 26,975 | 178,004 | 602 | 1,027 | 130 | 862 | 3 | 5 |
| Uri | 2,263 | 24,997 | 5 | 37 | 83 | 916 | 0 | 1 |
| Schwyz | 4,306 | 62,166 | 22 | 61 | 65 | 934 | 0 | 1 |
| Obwalden | 798 | 19,506 | 26 | 10 | 40 | 959 | 1 | 0 |
| Nidwalden | 1,169 | 16,135 | 21 | 23 | 68 | 930 | 1 | 1 |
| Glarus | 23,788 | 10,910 | 19 | 54 | 684 | 314 | 0 | 2 |
| Zug | 5,432 | 31,087 | 33 | 91 | 148 | 849 | 1 | 2 |
| Fribourg | 20,455 | 131,265 | 137 | 196 | 135 | 863 | 1 | 1 |
| Solothurn | 62,689 | 90,826 | 166 | 1,263 | 405 | 586 | 1 | 8 |
| Urban Basel | 110,273 | 52,254 | 2,854 | 4,580 | 649 | 307 | 17 | 27 |
| Rural Basel | 71,158 | 22,457 | 206 | 638 | 753 | 238 | 2 | 7 |
| Schaffhausen | 42,042 | 11,311 | 110 | 309 | 782 | 210 | 2 | 6 |
| Appenzell Ext Rhodes | 38,720 | 5,816 | 66 | 154 | 866 | 130 | 1 | 3 |
| Appenzell Int Rhodes | 510 | 12,854 | 12 | 7 | 38 | 960 | 1 | 1 |
| St Gallen | 113,921 | 169,883 | 1,133 | 1,264 | 398 | 594 | 4 | 4 |
| Grigioni | 66,091 | 61,586 | 239 | 331 | 515 | 480 | 2 | 3 |
| Aargau | 156,302 | 112,266 | 624 | 1,271 | 578 | 415 | 2 | 5 |
| Thurgau | 92,512 | 44,979 | 201 | 430 | 670 | 326 | 1 | 3 |
| Ticino | 9,053 | 149,875 | 500 | 2,454 | 56 | 926 | 3 | 15 |
| Vaud | 281,934 | 57,342 | 1,660 | 2,462 | 821 | 167 | 5 | 7 |
| Valais | 5,286 | 142,497 | 71 | 465 | 36 | 961 | 0 | 3 |
| Neuchâtel | 98,477 | 17,897 | 588 | 938 | 835 | 152 | 5 | 8 |
| Geneva | 95,477 | 73,081 | 2,244 | 4,053 | 546 | 418 | 13 | 23 |
| Switzerland | 2,457,242 | 1,754,204 | 19,429 | 34,828 | 576 | 411 | 5 | 8 |

[2] From *ibid*

## TABLE 3 Swiss Population by Language, in Percentages [3]

(Census of 1941)

| | Residents | | | | | Citizens | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | German | French | Italian | Romansh | Others | German | French | Italian | Romansh | Others |
| 1880 | 71 3 | 21 4 | 5 7 | 1 4 | 2 | | | | | |
| 1888 | 71 4 | 21 8 | 5 3 | 1 3 | 2 | | | | | |
| 1900 | 69 8 | 22 0 | 6 7 | 1 2 | 3 | | | | | |
| 1910 | 69 1 | 21 1 | 8 1 | 1 1 | 6 | 72 7 | 22 1 | 3 9 | 1 2 | 1 |
| 1920 | 70 9 | 21 3 | 6 1 | 1 1 | 6 | 73 0 | 21 7 | 4 0 | 1 2 | 1 |
| 1930 | 71 9 | 20 4 | 6 0 | 1 1 | 6 | 73 7 | 21 0 | 4 0 | 1 2 | 1 |
| 1941 | 72 6 | 20 7 | 5 2 | 1 1 | 4 | 73 9 | 20 9 | 3 9 | 1 1 | 2 |

[3] From *ibid* p 41

## TABLE 4 Swiss Population by Religion, in Percentages [4]

(Census of 1941)

| | Residents | | | | Citizens | | | |
|---|---|---|---|---|---|---|---|---|
| | Protestants | Catholics | Jews | Others | Protestants | Catholics | Jews | Others |
| 1860 | 58 9 | 40 7 | 2 | 2 | | | | |
| 1870 | 58 7 | 40 6 | 3 | 4 | | | | |
| 1880 | 58 6 | 40 8 | 2 | 4 | | | | |
| 1888 | 58 8 | 40 6 | 3 | 3 | | | | |
| 1900 | 57 8 | 41 6 | 4 | 2 | 61 6 | 38 0 | 2 | 2 |
| 1910 | 56 2 | 42 4 | 5 | 9 | 61 4 | 37 8 | 2 | 6 |
| 1920 | 57 5 | 40 9 | 5 | 1 1 | 60 8 | 38 0 | 3 | 9 |
| 1930 | 57 3 | 41 0 | 4 | 1 3 | 60 0 | 38 6 | 3 | 1 1 |
| 1941 | 57 6 | 41 1 | 5 | 8 | 59 3 | 39 7 | 3 | 7 |

[4] From *ibid*

## TABLE 5 Electoral Systems [5]

| | Executive Power | | | Legislative Power | | | | Conseil des états | |
|---|---|---|---|---|---|---|---|---|---|
| | Number of Members | Elected by | President Elected by | Number of Members | Years in Office | Electoral System | No In habitants per Representative | Method of Election | Years in Office |
| Confederation | 7 | AF | AF | 199 | 4 | PR | 22 000 | DE | 4 |
| Zurich | 7 | DE | CE | 180 | 4 | PR | 3 068 | DE | 4 |
| Bern | 9 | DE | CL | 194 | 4 | PR | 4,000 | CL | 1 |
| Lucerne | 7 | DE | CL | 167 | 4 | PV | 1,200 | DE | 4 |
| Uri | 7 | DE | DE | 49 | 4 | PR | 450 | DE | 4 |
| Schwyz | 7 | DE | CL | 99 | 4 | PR | 700 | DE | 4 |
| Obwalden | 7 | L | L | 34 | 4 | PV | 600 | L | 3 |
| Nidwalden | 11 | L | L | 58 | 6 | PV | 300 | L | 4 |
| Glarus | 7 | L | L | 68 | 3 | PR | 500 | L | 3 |
| Zug | 7 | DE | CL | 78 | 4 | PR | 480 | DE | 4 |
| Fribourg | 7 | DE | CL | 118 | 5 | PR | 1,200 | CL | 4 |
| Solothurn | 5 | DE | CE | 130 | 4 | PR | 1,200 | DE | 4 |
| Urban Basel | 7 | DE | CL | 130 | 3 | PR | 1,307 | DE | 4 |
| Rural Basel | 5 | DE | CL | 80 | 3 | PR | 1,181 | DE | 4 |
| Shcaffhausen | 5 | DE | CL | 80 | 4 | PV | 700 | DE | 4 |
| Appenzell Ext Rhodes | 7 | L | L | 56 | 3 | PV | 1,000 | DE | 4 |
| Appenzell Int Rhodes | 9 | L | L | 63 | 1 | PV | 250 | L | 4 |
| St Gallen | 7 | DE | CL | 178 | 3 | PR | 1 500 | CL | 1 |
| Grigioni | 5 | DE | CL | 98 | 2 | PV | 1,200 | DE | 3 |
| Aargau | 5 | DE | CE | 193 | 4 | PR | 1 400 | DE | 4 |
| Thurgau | 5 | DE | CL | 119 | 3 | PR | 350 | DE | 4 |
| Ticino | 5 | DE | CE | 65 | 4 | PR | x | DE | 4 |
| Vaud | 7 | DE | CE | 217 | 4 | PV | 550 | DE | 4 |
| Valais | 5 | DE | CE | 131 | 4 | PR | 1 100 | DE | 4 |
| Neuchâtel | 5 | DE | CE | 103 | 4 | PR | 1 200 | CL | 4 |
| Geneva | 7 | DE | CE | 100 | 3 | PR | 1,749 | DE | 4 |

L = *Landsgemeinde*
DE = Direct election
CE = Cantonal executive body
CL = Cantonal legislature
PR = Proportional representation
PV = Plurality vote
x = The canton of Ticino forms a single electoral college
AF = Federal assembly

[5] From *ibid*

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# PART IV

# *The Government of Italy*

By JOHN CLARKE ADAMS

# Chapter 31

# The Land and the People

THE TERRITORY of Italy is comprised of 301,026 square kilometers (about 100,000 square miles), situated in the south of Europe The lower part of Italy is a peninsula but the upper half forms part of the European mainland and is separated from the rest of Europe by the Alps The position of Italy, however, is quite different from that of Spain and Portugal The Iberian Peninsula is almost completely cut off from the rest of Europe by the Pyrenees, and consequently Spain and Portugal have only been spasmodically in contact with western European culture The Alps have formed no such barrier between Italy and the rest of Europe They protect the central part of Italy's northern frontier, but leave no effective barrier to the east and the west Accordingly Italy, instead of developing as a rule unto itself, with a life and culture apart, has long been an integral element in Western civilization, to which it has contributed as much as any other nation

Although the Italian territory is about half that of France, it must support some 5,000,000 additional people, as the estimated population for January 1, 1947 was 45,787,000 Italy's demographic problem is further accentuated by the fact that much of her land is of little economic value As the years go by overcrowding becomes increasingly severe because Italy is one of the European countries with a high birth rate [1]

The Italian peninsula, which extends southeastward from Europe, is divided down the middle by the range of the Apennines, rugged and forbidding mountains, which if they do not rise to a great height are in many places filled with arid and inhospitable land To the west of the mountains lie the hill towns of Tuscany, Umbria, and Lazio To the east is Italy's one great fertile plain, the Po Valley This triangular plot, lying roughly between Milan, Bologna, and Venice, is almost one continuous garden of growing things

Besides continental Italy, the Italian territory includes several islands, of which the most important are Sicily and Sardinia Among the smaller islands

[1] Scholars predict, however, that the Italian population is reaching a point of stability and will never rise to 50,000,000 V Silvio Negro, "Finisce di crescere la popolazione italiana," *Il corriere della sera*, April 26, 1949

the most famous are Pantelleria, where the Allies first landed from Africa on the way to Sicily, Capri, Elba, off the coast of Tuscany, where Napoleon was first exiled, and Monte Cristo, whose fabulous Count is in good part responsible for the fame of Alexandre Dumas *père*

During the twentieth century, and particularly under Fascism, Italy had built a considerable colonial empire and had extended her continental frontiers somewhat beyond the ethnic limits of the Italian people Most of these gains were lost subsequent to her defeat in the Second World War The countries annexed by Italy in the Fascist period—Ethiopia in 1936 and Albania in 1939—were liberated and their independence was recognized by the peace treaty At the same time the Dodecanese Islands, taken by Italy during the Italo-Turkish war in 1912, were ceded to Greece The Italians also renounced their concession in Tientsin and all special privileges and benefits in China [2] The disposition of the other African possessions was not determined by the peace treaty but was settled in part by the United Nations in one of its most important decisions on November 21, 1949 The United Nations decided that Libya, comprising Cyrenaica, Tripolitania, and Fezzan, shall become an independent sovereign state not later than January 1, 1952, and that Italian Somaliland shall become independent within ten years and in the meantime be placed under the international trusteeship system with Italy as the administering authority The future status of Italy's other former colony, Eritrea, was left undecided pending a further investigation of the wishes of the inhabitants [3] The peace treaty also reduced continental Italy, ceding a small amount of territory, including two small hamlets on the Franco-Italian border, to France, and giving Zara, Fiume, and most of the Istrian peninsula, to Yugoslavia The city of Trieste and its immediate surroundings are, for the present, a free state under Allied control

There is wide variation of climate in Italy, and the British poets who popularized the idea of "sunny Italy" were making a statement for parts of the country only, and in comparison with the drab and damp climate of their homeland In the Italian Alps and the Dolomites to the east there is skiing even in summer In winter a two-hour trip from Rome takes one to ski country Contrasted to this is the semitropical climate of Sicily and the mild climate of Naples, both havens of the citrus fruit growers Rainfall is abundant throughout most of Italy, particularly in winter, and snow is not uncommon in the northern cities

Italy is poor in mineral wealth She has an exportable surplus of mercury and of sulfur, but she has little coal or iron and is completely or nearly lacking in oil, nickel, tin, copper, and chromium Her hydroelectric potential is high but is not thoroughly developed, in part because seasonal rainfall makes it expensive to maintain supply throughout the year American capital is now

[2] Treaty of Peace with Italy, Department of State, Washington, 1947

[3] United Nations Bulletin, VII (1949), pp 643, 687

being invested in drilling for oil in Italy and if a significant amount can be found, this may give Italy an independent fuel supply in the future

Even in agriculture Italy is not self-sufficient She has exportable surpluses of fruit and rice, but she must import quantities of all other grains and most dairy products to meet her needs She is also dependent on foreign trade for her sugar, her salt, and her coffee

Italian industry is centered in the Turin-Milan-Genoa triangle of northwest Italy Turin is the home of the great automobile works, FIAT, and of Italy's best car, the Lancia In nearby Ivrea the plant of the typewriter monopoly, Olivetti, is located The port of Genoa is the great shipping center and is also the home of the Ansaldo, the ILVA and the San Giorgio metallurgical works Milan, the largest of these cities, is the center of the textile industry and of the Pirelli rubber monopoly, as well as of the Breda works, where much of Italy's railroad equipment is made

Among Italy's major industries perhaps the best equipped to enter the foreign markets is the textile industry, which is prepared to produce much more than the internal market is ready to consume The chemical industries, centered in the two great monopolies, Pirelli for rubber and Montecatini for chemicals proper, are able to supply the Italian market and make a profit out of it The heavy industries are in a less happy position Even with the help of high protective tariffs, they have difficulty staying in business, and they continue to be subsidized more in the interest of pressure groups and of national prestige than for any hope that continuation at their present size can ever have a purely economic justification

Only about a third of Italy's working population is engaged in industry, and about a third of these are virtually artisans, being employed in plants which hire ten or less workers Of Italy's 6,000,000-odd industrial workers about 1,000,000 are metallurgical workers, about half a million are textile workers, and a quarter-million are chemical and rubber workers Most of the large heavy-industry plants except FIAT are government owned through IRI (*Istituto ricostruzione industriale*), whereas the textile industry and chemical industry are for the most part in private hands The textile industry is divided into many small and independent firms and the chemical industry is dominated by two large monopolies Pirelli (rubber) and Montecatini

Although Italians have had a long history as bankers, the major banks today are in poor financial condition and are practically government owned Genoa is the center of international trade, and of great wealth among the leading commercial families Milan is perhaps the center of internal commerce The backbone of the Italian commercial system, however, is the small merchant who with his family runs his own store Perhaps no higher compliment can be paid to these shrewd, hard-working, and penny-pinching merchants than to point out that the Jews, who in many other countries have virtually monopolized this class, in Italy have never succeeded in replacing the Italians

A sketch of Italian economic life cannot be complete without mention of two additional factors the artisan and the tourist The Italian artisan still produces works of high aesthetic value, and the goldsmiths, lacemakers, potters, leatherworkers, glass blowers, as well as many specialized workers in the textile trades, turn out products which are preferred on the international market From the point of view of economics, however, Italy's greatest "export" is the tourist trade, for without the foreign currency which the millions of foreign tourists bring annually, the financial condition of Italy, instead of being merely precarious, would be beyond repair And so Italy's greatest resource is the beauty of her land and the beautiful things with which she has adorned it The Italian lakes, the lagoons of Venice, the fertile plains of Lombardy and Emilia, the rolling hills of Tuscany and that peculiarly clear atmosphere which makes the landscapes in Tuscan painting seem unreal to persons who have not lived there, the bay of Naples, Amalfi, Taormina—each has a unique natural beauty But the Italians have not idly contemplated their beauty, except perhaps in the south The Sistine Chapel of Rome and the galleries of Florence and Venice, the cathedrals of Tuscany and of Milan are revered by all lovers of the visual arts La Scala is the shrine of Italian opera These and countless other treasures are found in Italy for the delight of the tourist, and consequently, though it is true that the Italian land has not been prodigal in products to be sent the foreigner for gold, it is in recompense rich in those qualities which bring the foreigner and his gold to Italy

It is true that a country must have land, but land alone is not sufficient to make a country, there must also be a people In the formation of Italian culture, the Italian people have played a greater role than has the Italian land

Metternich, a clever statesman, made a "clever" statement when he remarked that Italy was only a geographical expression He implied thereby not only that there was no Italian government, which was true in his day, but also that there was no Italian people, and this to a degree is still true today

There are, of course, cultural differences among the regions of every country These differences are particularly obvious in Switzerland, but they also exist between the Norman and the Gascon In our own country the differences between a Bostonian of whatever class and a Mississippian are striking In Great Britain, in France, and in the United States, however, all sections share a common language and have forged governments by a common will In Switzerland the common will exists, and works through the understanding of each person's language by the government in its dealings with him

Not so in Italy It would be hard to estimate the number of Italian citizens who do not understand Italian Perhaps most of the men learn something of the language through military training, but millions of women and children speak and understand only a local dialect

Nor have the Italians had a tradition of union This nation is less than a century old, and if previous to that Italy had been the dream of most great




Italian Regions and Provinces, 1948

Italians from Dante through Machiavelli, it was a dream the Italian peasant did not share

Modern Italy grew out of the barbarian invasions which dissolved the Roman Empire It was in the thirteenth century that the ideas and ideals which are the basis of Italian culture were first expressed St Francis of Assisi was perhaps the first great Italian, both chronologically and hierarchically, and he was followed by Dante Alighieri, by St Thomas Aquinas, and by that miracle of effulgence that was the Italian Renaissance

The Italian Renaissance was centered in Tuscany From Tuscany it spread northward to England, and in the northern countries it took root and prospered Attempts to transplant it to the south, however, were less successful, and although the despotic rulers of Rome and Naples frequently brought eminent artists and scientists to their courts, the major attributes of Western civilization seldom took root in these states, where they served primarily as a veneer for the internationally minded elite

Tuscany is the cradle of Italy and of Western civilization It was in the hill towns of this gracious land that the modern world was born Tuscany has given Italy its language, a major portion of its literature, and much of its painting and music Tuscany and the adjacent Umbria are the only regions of Italy where Italian is the native spoken language Elsewhere Italian has been superimposed on local dialects The Tuscans like to think of themselves as the descendants of the ancient Etruscans who inhabited their country in early Roman times In his physique the Tuscan differs from the north Italian, who has Nordic elements, as well as from the southerner Blue eyes and blond hair are not uncommon here, but perhaps the most noticeable physical aspect of the people is the frequency with which well-developed heads and bodies are attached to remarkably short legs

No Tuscan worth his salt, however, would admit there was a single Tuscan type He would be willing to expatiate at weary length on the differences among the citizens of Siena, of Pisa, of Livorno (sometimes called Leghorn), of Lucca, of Florence, and as for the *Lunigiani* who live in the province of Massa, he would probably refuse them even the honor of being classed as real Tuscans Local pride of this kind goes to lengths which it is difficult for rootless Americans to understand The province of Lucca, for instance, produces some of Italy's best olive oil, and a Lucchese peasant considers oil from other provinces not merely inferior but possibly poisonous A cultured and intelligent man of my acquaintance who was born some twenty miles to the east of Siena in the village of Torrita is convinced that the only place in Italy where the people speak Italian with the proper accent and the place where the best oil and wine are produced is in a district a few miles square of which his native town is the center

Today the Tuscan is a farmer or an artisan There are few important industries in the region, although marble comes from Carrara and wool is

manufactured at Prato The crops of Tuscany are diversified, and little that is grown elsewhere in Italy need be imported Exports to other parts of Italy and abroad include the oil of Lucca and Chianti, one of the few of Italy's famous wines that ship well and compete favorably on the foreign market The artisans of Tuscany are among the most famous in Italy, and Tuscan linens, leather goods, and pottery are honored virtually the world over

In politics the Tuscan is likely to be an extremist These peaceful hill towns that were once hotbeds of Fascism are now more than tinged with red The prosperous farm communities of Siena province have turned out a larger percentage of Communist party members than any other province of Italy This political extremism of the Tuscans can be partially explained by their traditional anticlericalism The proximity of Tuscany to the former Papal States and the historical rivalries between the two governments may have influenced the modern Tuscan mind on this question As long as the clerical party remains nominally a center party, there is nothing for the Tuscan to do except go right or left

To the south of Tuscany and to the northeast of Rome lies the small region of Umbria, whose cultural life has always been closely associated with that of Tuscany Umbria was the home of St Francis, of the painters Raphael and Perugino Its hill towns, clustered in the Apennines, are somewhat higher and more remote than those of Tuscany proper, but its language is of the same purity and the same basic culture prevails

To the north of Tuscany and across the Apennines lies the great fertile plain surrounding the Po Valley This large sector, comprising the three regions of Lombardy, Veneto, and Emilia Romagna, is the heart of north Italy Historically, Milan under the dukes was generally the strongest force in this area, but Ferrara under the Este family, Mantua under the Gonzagas, as well as Parma, Modena, Bologna, and many of the smaller cities each had its moments of glory, power, and independence From Bologna south through the lower region of the Marche this area languished long under the rule of the Popes

The southeast portion of this section, the present region of Emilia Romagna, ranks next to Tuscany in the production of Italian cultural leaders This is the land of Ariosto, of Correggio, of Carducci, of Giuseppe Verdi, and of Arturo Toscanini It is the home of Italy's most famous cuisine, and of wines like Lambrusco and Albano, which although too light to withstand transportation are among the most favored in Italy As in Tuscany, politics in Emilia Romagna are apt to be violent, and are now far to the left The city of Modena, for instance, has the highest percentage of Communists of any Italian city The southern half of the region, the Romagna, is strongly anticlerical As one proceeds north, however, the anticlericalism becomes attenuated and on the other side of the Po and in Lombardy it is no longer a major political force

There is less uniformity in the Emilia Romagna region than in most of the other Italian regions The dialects differ greatly among themselves, as do other aspects of the local cultures This is explained in part by the fact that the region has never been united for any long period under a common government The Apennines to the south and southwest form the only natural boundary The other boundaries have changed repeatedly with the vicissitudes of war

Of all the Italian regions Lombardy is the least quaint The relatively high standard of living found particularly around Milan is partly due to the textile industry which flourishes there Most textile workers are women and bring supplementary incomes to many Lombard families Since the bare necessaries of life are provided for by the wages of the husband or father the additional income can be saved or spent on nonessentials This is how Milan theaters (as distinct from those of other Italian cities) usually play to full houses and why the cafés and shops are crowded

At the eastern extremity of the Po Valley lies Venice, a unique water city, for centuries cut off completely from the mainland until recently a long railway bridge and an automobile road have reconnected her to the Continent The fishermen who founded Venice were protected by this water barrier from the barbarian hordes coming down from the north, and as these industrious people prospered they built a civilization as unique as the location of their city The Most Serene Venetian Republic endured for over a thousand years before it finally succumbed to Napoleon, and during that time it was never bankrupt, was never occupied by foreign troops, and never had a successful revolution This is a record no part of which has so far been equaled by any other state in western Europe

During this millenium of freedom the Venetians developed a language and a culture of their own, influenced by but quite distinct from the Italian cultures Even today Venetian dialect is the only spoken language among Venetians To be sure, educated Venetians will speak Italian to "foreigners" from the mainland, but they still prefer to speak dialect at home

As the city prospered and the sons of her ancient fishermen became seafaring traders, Venice began to incorporate part of the mainland into her domain until finally her culture had spread to the gates of Milan Today the entire region of the Veneto speaks a similar dialect and enjoys a common culture These *Veneti* are often called the southerners of the north, in part because of their ardent Catholicism, in part because of their unaggressive gentleness This is primarily a rich farming region In spite of a high birth rate the standard of living remains relatively high because in the past at least, when migration was easy, many *Veneti* went to South America If South America does not soon open its doors again, overcrowding may become serious in this region, which at the present time is constrained to seek an outlet for its

demographic superabundance in the other already overcrowded regions of Italy

In the northwest corner of Italy lies Piedmont, the home of the house of Savoy, and the most French part of the country In fact, on going from Lombardy to Piedmont one would seem to have reached the halfway mark between Milan and Paris The Piedmontese dialect, which like Venetian dialect is still spoken even in upper-class families, is almost as close to French as it is to Italian There is a bourgeois mentality in Piedmont which recalls that of France, and a matter-of-factness quite in contrast with the attitude of the rest of Italy Piedmont has been invaluable to Italy, particularly in politics A large number of Italy's greatest statesmen have been *Piemontesi*

The port of Piedmont is Genoa, the capital city of the coastal region of Liguria Like Venice, Genoa used to be a great maritime power, but unlike her sister city on the Adriatic she did not accompany her commercial growth with a corresponding cultural expansion Genoa too has had her great men—Columbus, Giuseppe Mazzini (some persons might add the present Communist leader, Palmiro Togliatti)—but has no literature, art, architecture, or language comparable to those of the Venetians The parallel history of the commercial expansion of the two rival cities and their different cultural effects should make an interesting study for Marxist economists who maintain that the cultural development of a country is a function of its economic and technological development

Although the regional cultures just described differ widely among themselves, each has made its contribution to Italy and each in its own right is an integral part of that common culture of Western civilization The cleavage between these cultures is as nothing in comparison to the cleavage between north and south

The south is modern Italy's major problem, for in many senses the south Italian is not a part of that common western European civilization which unites the peoples of western Europe and the United States There was a time not so long ago when the American immigration authorities officially distinguished on their forms between north and south Italians, a distinction made for no other country

Prior to unification the people of southern Italy had had a negligible amount of experience with democratic government The subjects of the Papal States were governed by despots who at best were benevolent but who often were careless, negligent, or incompetent When the vacillating and epileptic Pius IX made a serious attempt to bring about reforms like the building of a railroad, which his predecessor Gregory XIV had thought a dangerously revolutionary idea, he soon discovered that the ruling clique would not go along with him and that centuries of misrule had unfitted the people for reform

Conditions as bad if not worse could be found in the Kingdom of the Two

Sicilies No place west of the Orient has known governments so despicable, so corrupt, and so pettily cruel as those that tyrannized over southern Italy from 1815 to 1860 In this part of Italy century on century of misrule had made poor citizens of almost the entire population A man in trouble with the government could find succor at any farmhouse In popular fiction it was the bad people who joined the police

The American tourist knows little of this part of the country, and for obvious reasons In the entire region of Lucania, situated in the instep of the boot of Italy, it is said there is not one clean hotel At the height of the Fascist drive for universal education, half the married couples in the region of Calabria at the toe of Italy could not sign their names to a marriage certificate even though many of them had had a year or two of schooling at some time in the past and consequently were not classed as illiterates

Giovanni Verga, the greatest literary figure that southern Italy has produced, in his great novel *I Malavoglia* describes with insight and compassion the conditions of the poor in Sicily at the turn of the century That these conditions have not materially changed is attested by the modern best seller *Cristo si è fermato a Eboli* (*Christ Stopped at Eboli*), by Carlo Levi, a Piedmontese Jew, who as an anti-Fascist was condemned to live for years in isolated villages in Lucania

Even today class lines are drawn sharply in south Italy Much of the power is in the hands of the aristocracy The mass of the population is miserably poor, and often, through a mixture of ignorance and malnutrition, they are unable to perform a profitable day's work Obviously the Italian government is aware of this problem but cannot find an easy solution The section is already overpopulated and still has the highest birth rate in Italy At first glance it might seem that no parents would want to bring children into the life of poverty that they lead Such an attitude, however, is typical of the bourgeois culture In France and England, as well as in northern Italy, most families are sufficiently provident as not to want more children than they can conveniently support When one reaches the depths of poverty found in the south of Italy, however, one finds additional children scarcely any economic burden and so there is no incentive to stop reproduction The Catholic Church opposes most types of demographic control and makes it virtually impossible to do anything about the situation there

It would of course be absurd to suppose that all the population of southern Italy lacked initiative, nourishment, and literacy Perhaps the greatest tragedy of all, however, is that many of the individuals in that part of the country who do have ability and who could help in the slow job of reconstruction show little inclination to remain in southern Italy Millions of the more aggressive have migrated to the Americas, where many of them have made their fortunes Since emigration has become increasingly difficult, first because of Fascism and then because of the war, others have gone to north Italy, Neopolitans and

Sicilians form a conspicuous number of Milan's most prosperous and efficient businessmen And so the people who are left behind in the south are those less able to help themselves The present government is making an effort at a long-term project of land reform which may prove to be the solution to the problem, but it will probably take a good half-century of peace and hard work before the south of Italy can really be brought into Europe

There are of course major differences among the various regions of Italy's south, but they pale into insignificance before the enormous difference between the north and the south On the mainland, Naples is at once the gentlest, the most corrupt, and the most beautiful city The Calabrians to the south in Italy's toe are both cleaner and tougher Apulia, in the heel of Italy, is richer, and the population is more violent, whereas the mountain folk in the Abruzzi seem to be the most peaceful of all The Sicilians are a law unto themselves With a stronger Spanish influence than elsewhere, Sicilians are still imbued with something like a Spanish sense of honor, and maintain banditry, which has been dead on the mainland for a long time The present No 1 bandit, Giuliano, has been living comfortably in Sicily for several years with the police unable to arrest him This state of affairs, however, did not prevent a *Life* magazine correspondent from interviewing and photographing him with little apparent difficulty Sicilian aptitude for banditry has been attested in America by the careers of Al Capone and Lucky Luciano

Sardinia is among the poorest regions of Italy Continental Italians rarely visit this island, which leads its own life of misery apart, both undisturbing and undisturbed

The major contribution made by the southern Italians to Italian culture has been in the field of philosophy The greatest Catholic theologian, St Thomas Aquinas, though born of Lombard parents, was *ture soli* a Neapolitan, and two of Italy's most distinguished philosophers, Giovanbattista Vico and Benedetto Croce, were also from Naples The island of Sicily has produced the political scientist Gaetano Mosca and the philosophical playwright and novelist, Luigi Pirandello

Rome is simultaneously a vast archaeological museum, the center of Christianity's most powerful church, and the capital of western Europe's most populous state It is also a place of considerable natural beauty, endowed with a pleasant climate These various attractions make Rome a popular tourist spot and one worth the visiting but they do not succeed in making it a city in the sense that Milan, Genoa, Turin, and even Venice and Florence are cities Rome, charming as it is, continues to be an overgrown village living off the sweat of the farmers and the factory workers of the productive parts of Italy In this respect it is like Washington, for Italy and America are similar in that the political capital and the economic capital are separated Italy's New York is Milan, whereas London and Paris serve as both kinds of capital for Great Britain and France

Rome has the distinction of having been an important cultural center for thousands of years and yet of having produced in the last thousand years not more than a handful of prominent native sons It is in the unique position of not being naturally a part of western Europe, but belonging by adoption, as it were Rome is naturally more akin to Naples than to Milan, but it is also the seat of a church aspiring to universality This has made possible the persistence of Rome as a culture center, for what has not been produced locally the church has been powerful and wealthy enough to import Of the natives, the greatest perhaps was Palestrina, who came from the hills nearby Rome's most prominent native son today is indubitably the present Pope

The province of Latium, which surrounds Rome, does not resemble it culturally The sober, industrious farmers of the countryside may not have brought to light the astounding number of geniuses which the Tuscan farmers have produced, but they are a sound democratic stock whose members know the value of a solid day's work Many of these towns, Velletri and Terracina, for example, are staunchly Republican and in the administrative elections of 1945 and 1946 gave the Republican party an absolute majority of the votes

These are the Little Italies It is from this hodgepodge of geographical affinities and contrasts and of common aspirations that the big Italy is formed Somehow the barriers of mountain and stream, of history and tradition, are overcome and a common Italian culture emerges, which will be discussed in the following chapter It is rare, however, that this Italian culture succeeds in quite effacing the traditional regional culture which, in one or other of its forms, is the birthright of almost every Italian, whose understanding of and participation in Italian culture will be complemented and deepened by a similar loyalty to the culture of his native region

Chapter 32

# *Historical Development*

## *THE PRE-FASCIST PERIOD*

THE BACKGROUND of modern Italy can be viewed by tracing its political history from the Congress of Vienna In 1815 when Napoleon was finally immobilized on St Helena Metternich was the guiding spirit of the forces which tried to gather up the fragments of the old Europe that Napoleon had strewn hither and yon and to piece them together again into something like their old relationships Thus respecting Italy the Congress of Vienna with one exception restored the former rulers or their heirs to their various thrones throughout the land The exception was the duchy of Milan, which Austria took as partial compensation for losing Belgium The former republics, however, were treated with less consideration Republicanism was not popular in Vienna in 1815 and consequently the Italian republics of Venice and Genoa were not destined to regain their former independence, instead, Venice was annexed to Austria and Genoa was given to the Kingdom of Piedmont and Sardinia

After 1815, therefore, Italy was divided into seven independent states and the northeast portion of the country, roughly comprising Lombardy and the three Venetian regions (Veneto, Trentino-Alto Adige, and Friuli-Venezia Giulia) were under Austrian rule The seven independent states were the Kingdom of Piedmont and Sardinia, comprising roughly the present regions of Piedmont, Sardinia, Liguria, and Aosta (Part of the Haute-Savoie then belonging to Piedmont opted for France in a plebiscite in 1860 ) This was a small, relatively progressive kingdom, ruled over by the house of Savoy To the south of it, along the Tyrrhenian coast, lay the small city-state of Lucca, whose grand duchess, Maria Luisa, was a relatively enlightened despot Still further to the south lay Tuscany, whose grand dukes were almost exemplary rulers and authors of land reforms which reclaimed much of the province of Grosseto and vastly enriched the domain Across the Apennines lay the capitals of the two small duchies of Parma and Modena, whose meager territories, however, spread on to the west The Teuton dukes of Modena, although they have the reputation of being a harsh lot, were at least serious

and efficient rulers Parma's grand duchess, also Maria Luisa, wife of Napoleon, has a reputation much like her Lucca namesake

To the south of these five principalities and cutting across the entire peninsula lay the Papal States and to the south of them the largest of Italian states, the Kingdom of the Two Sicilies

It is now the fashion to see considerable good in the work of Metternich and to realize that after the shock of the French Revolution and the wear and tear of the Napoleonic period Europe needed to set the clock back a little, to retire and heal her wounds This point of view, recently popularized by Ferrero and others, was definitely not shared by the young intellectuals of a century ago They did not appreciate the beneficent balm of this period of relative repose, but focused their attention on the stupid reactionary measures carried out over most of Europe by unfit kings In Italy this revolutionary fervor was heightened by the fact that except in Piedmont and the Papal States the rulers were also foreigners This dual impetus fathered a new awakening, a *risorgimento*, a resurgence which was to culminate in the realization of Italy's traditional aspiration, national unity

Although the *Risorgimento* included members of all classes and all sections of Italy, it had its roots and its main strength in the north, and among the students and intellectual classes It was not an organized movement and had many over-romantic and highly impractical leaders but kept a pure and stirring idealism that succeeded in performing a miracle impossible to sober statesmen

The great figures of this movement are many But in the first ranks are found Italy's three great Josephs of the nineteenth century Giuseppe Mazzini, Giuseppe Garibaldi, and Giuseppe Verdi It was they and their kind who gave the movement its spiritual force

Giuseppe Mazzini, a physically frail philosopher, was born in Genoa in 1805 In early life he determined to devote his efforts to helping the people of Italy and of Europe win their freedom Frail though Mazzini's body was, his soul was great, and through his *Giovine Italia* (Young Italy) movement he became the spiritual mentor of the *Risorgimento* and later, through similar societies formed in most of the other European countries, spread his influence far beyond the confines of his native land As a practical politician, however, Mazzini was hardly successful After exile from Italy for his revolutionary activities, he returned to lead the Roman revolution in 1848, but a few months of his well-meaning rule made the people ready to revert to papal authority His influence, however, lives on, and one of the present-day statesmen most determined to effectuate Mazzini's dream of a united, federated Europe is his devoted disciple, the Italian Foreign Minister, Count Carlo Sforza

The second of these figures, Giuseppe Garibaldi, was one of the most atypical generals in modern history He was a knight in shining armor who

rode forth through the world to succor the oppressed, and the grail he was seeking was human liberty Few soldiers have volunteered their services in so many wars so unfailingly on the side of liberty and justice Born in Nice of Italian parents in 1807, Garibaldi lived to fight many a daring campaign After his early exploits in Italy he fought for the freedom of Uruguay in 1841, and Rome in 1849 In 1860 he performed his most glorious feat when, sailing from Genoa with his *Mille* (his thousand men), he liberated all southern Italy from the Bourbon tyranny Unfortunately his later exploits against Austria and Rome were less successful He was never a man to understand intrigue or compromise and his aims, if ever glorious, were often impractical Although in his many attempts to take Rome for Italy he found France his major enemy and although he bitterly resented the annexation of his native Nice by France, it was typical of the man that in France's hour of need in 1870 Garibaldi offered her his services in the name of that freedom to which he had whole-heartedly devoted his life

Although Giuseppe Verdi was exclusively a musician, he too was a major idealist influence in the Italian *Risorgimento* Verdi was the artist of the movement, and until 1870 when the major purpose of the *Risorgimento* was accomplished he wrote hardly an opera not imbued with the idealism of the young patriots Verdi found the *Risorgimento* in the hearts of the Italians and he revealed its ideals to them through his own music If there had been no *Risorgimento*, Verdi might have been merely another purveyor of pretty tunes like his successful predecessors, Rossini, Bellini, and Donizetti But instead, from the work which brought him his first lasting acclaim, the opera *Nabucco*, whose greatest moment is the chorus of the Jews in captivity singing of their native land lying under the invader's heel, through the anticlerical *Aida*, Verdi's operas were filled with the spirit of the *Risorgimento* A fantasy of fate having nothing to do with his musical ability enhanced his importance to the movement The initials of his name stood for Vittorio Emanuele, King of Italy (Vittorio Emanuele *Re d'Italia*), and so when people shouted "Long live Verdi" the cry had a double meaning, just as the plaint of the Jew in captivity and Amneris' savage attack on the Egyptian priests had double meanings

The idealists of the *Risorgimento*, however, could not perform their task alone However glorious their exploits, they would have been doomed to failure if it had not been for the sober work and the laborious compromises worked out by the persons who were content to play less romantic roles Among these men the greatest was Camillo Benso, Count Cavour Cavour was the Piedmontese statesman who brought about Italian unity by political persuasion and intrigue In this he was aided by his ambitious King, Vittorio Emanuele II, who became the first King of a united Italy

After the unsuccessful revolutions of 1848 Piedmont remained in a favored position because of the stand taken by its peculiar King, Carlo Alberto Al-

though in each case short lived, the various revolutions succeeded in one thing wresting some sort of constitution from the reluctant rulers The rulers' promises were soon forgotten when in the succeeding months the revolutions were put down and reaction again took control To this general rule, however, Carlo Alberto was the unique exception Although no lover of liberalism, and in many respects a vacillating person, Carlo Alberto was a man of his word, and a constitution, once given, he deemed a pledge by which he was permanently bound And so because of the honor and the stubbornness of this King, the constitution (*Statuto*) which he gave his people in 1848 lived on to serve as the constitution of a united Italy for a hundred years, until the new republican constitution went into effect January 1, 1948

Although in the years following 1848 Italy was seething, nothing of lasting importance happened until 1859 when a war against Austria with Napoleon III as an ally ended in the Treaty of Turin giving Parma and Piacenza outright to Piedmont, and giving Lombardy to Napoleon with the understanding he could turn it over to Piedmont if he so wished By the next year all the duchies as well as a portion of the Papal States had successfully revolted and Napoleon faced the accomplished fact of a united northern Italy In exchange for this acceptance of the inevitable, he was granted Nice and Savoy For incorporating the Romagna (the eastern portion of the Papal States) in the new Italian state, the Pope excommunicated Vittorio Emanuele

To accomplish the next stage in the unification Cavour relied on Garibaldi, as direct action might have led to international difficulties, and so on May 5, 1860, Garibaldi and his Thousand sailed from the Ligurian coast on the glorious venture to free their southern brethren Ten months later, on March 17, 1861, the entire peninsula except the city of Rome was united and the Italian kingdom was proclaimed In less than three months from this date while the new nation was desperately in need of his sober and sagacious council, Cavour died and left the government to the greatest Tuscan statesman of the period, Baron Bettino Ricasoli, whose estates both then and now produce some of the best wine in Italy Ricasoli was soon followed by another Piedmontese, Urbano Ratazzi, and he by Luigi Carlo Farini, who unfortunately became ill and resigned a few months after taking office With the advent of Marco Minghetti the caliber of the Prime Ministers fell to a level above which they seldom rose for the next half-century It seemed as if in the *Risorgimento* Italy had expended its quota of rare and noble spirits and thereafter experienced a long series of uninspired mediocrities

On June 20, 1866, however, Ricasoli, the Iron Baron, returned to power for ten months, a period long enough to conduct the Italian participation in the Austro-Prussian War In this struggle, although her armies and her fleet were both defeated, Italy succeeded in acquiring the Veneto from Austria She covered herself with little military glory, but at least she acted honorably After the alliance with Prussia, Austria offered her the Veneto in exchange for

her neutrality, but she refused to break her pledge of military assistance, such as it was, to Bismarck

Four years later, after Napoleon's defeat at the hands of Bismarck, Italian troops entered Rome on September 20, 1870, and ten days later Rome by plebiscite freed herself from papal authority and declared for union with Italy

Having unified her position on the mainland, Italy next turned to empire Through procrastination she lost Tunis, her obvious colony, to France, in an effort at compensation she later made landings and occupied cities on the African shores of the Red Sea The most important of these cities, Massaua, she took in 1885 Five years later she created the colony of Eritrea and three years after that thought she was ready for a great colonial venture in Abyssinia This effort, however, was to end ignominiously in a defeat at the hands of the Abyssinian ruler Menelik, a defeat which like so many other losses of the Italian armies can be attributed more to the incompetence of the government than to any failings of the soldiers The final overthrow in 1896 marked the first conclusive victory of black troops over white troops, and although this defeat was in a sense reversed by Mussolini in the Ethiopian War of 1935-1936, the revenge was short lived

After this defeat Italy contained her colonial aspirations for fifteen years until in 1911 she felt it was safe to wrest Tripoli, Cyrenaica, Rhodes, and the Dodecanese Islands from Turkey This she succeeded in doing without any great trouble, as Turkey, afraid of a Balkan alliance which was forming, was much more concerned with fighting for her own life than for a colony both distant and of little value

The beginning of the First World War found Italy nominally a member of the Triple Alliance but actually an enemy of Austria After a year of dalliance she entered on the side of France and Great Britain and was rewarded for her help at the peace table with *Italia irredenta* (Trento, the Tyrol, Trieste, Istria, and part of the Dalmatian coast and adjacent islands), the unredeemed Italy, which had languished for so long under Austrian rule

After its first four Premiers no one of stature appeared on the Italian scene until the advent of Mussolini In the interim Italy was governed democratically by little men not over-endowed with either ability or integrity and still she prospered on the whole The governments were unstable, and often both unprincipled and short-sighted Still, by using the Machiavellian technique of temporizing with events, a technique of which the perennial Prime Minister, Giovanni Giolitti, was master, serious dangers were avoided The post-war unrest, coupled with the ambition of Benito Mussolini, however, proved too much for these dilatory tactics and thus the Fascists came to power

## *FASCISM*

It is still too early to give a final evaluation of Fascism and Mussolini, but at least it is possible to view these phenomena in a less lurid light than has prevailed for many years

To understand what Fascism was in the beginning one need only consider what Americanism means to the countless Americans, legionnaires and others, who support the un-American Activities Committee, and who want Americanism taught in our public schools The great majority of these men are neither nefarious nor stupid They are convinced that Americanism is the finest thing in the world and they contemplate it with hearts beating a little faster and eyes moist with tears If you press them as to the meaning of Americanism, however, they can only tell you that it is the American way of life, that it is anticommunist, and that it follows the Constitution

Italian Fascists had the same difficulty in defining Fascism even though the movement originally appealed to many of Italy's finest men Its mission was to rid Italy of the communist menace and to make it a fit place for Italians

It was unfortunate but perhaps inevitable that a movement of this kind should fall into the hands of the type of men that the Fascist leaders were By playing on the motives of patriotism and anticommunism and by giving vent to the sadistic vagaries of the unrehabilitated war veterans, Mussolini and his cohorts built up a great political machine These Fascist leaders succeeded in doing on a national scale what some American city bosses have done in single cities and Huey Long did in the state of Louisiana

In the beginning the Fascist government was perhaps no worse for Italy than the rule of Tammany used to be for New York By many public services Mussolini did a lot more for the people than making the trains run on time, but, just as Tammany had done in New York, he charged the people two or three times what the services were worth In the 1920's, the anti-Fascists in Italy were not numerous Among them were the Communists, out to destroy capitalist civilization, and these Mussolini jailed or exiled Others, and they were not legion, saw through the façade of the Fascist panoply and were disgusted by its rottenness, and they feared for the future of their country should it remain for long in the hands of such unscrupulous men The far-seeing and great men who realized the dangers of Fascism however, were the exception, not the rule [1]

[1] The following citation from an eminent historian exemplifies the errors in judgment with respect to Fascism that were common in the twenties "The Italians have never known political self government The imposition of Fascism on the surface changed democracy into dictatorship, actually it changed a corrupt and inefficient travesty of the one into an honest and efficient actuality of the other Except among those who had lost their means of political livelihood and those dreamers who honestly believed that the former government had really been democratic, the change was welcomed as a great improvement" George B McClellan, *Modern Italy* (Princeton, 1933), p 232

It was not until after the rise of Hitler that Fascism became an obvious burden to the Italian people and betrayed completely the faith of the decent men who had originally supported it It is of course possible that if Hitler had not lived, Fascism would have continued to descend the same road to ruin and disgrace Lord Acton has said that as power tends to corrupt so absolute power corrupts absolutely, and perhaps no man could have withstood the power Mussolini arrogated to himself without becoming mad from it Such hypotheses must be left to the theorists, historians must be content to point out that it was after the advent of Hitler that the worst happened in Italy

Mussolini's rise to power and consequent exercise of it was accomplished by what in the strict sense were constitutional means The *Statuto*, which had been granted by Carlo Alberto in 1848, remained in form if not in spirit the basic law of the land throughout the Fascist period In spite of the much-publicized march on Rome and the Fascists' insistence that theirs was a revolution, Mussolini came to power in the ordinary legal manner After a cabinet crisis, brought about by the refusal of the King to sign a decree for martial law to put a stop to the march on Rome, the deputy Mussolini was requested by the King to become the new president of the Council of Ministers and form the new cabinet

Mussolini's first cabinet was an ordinary coalition government in which most parties from the Catholic center to the right were willing to participate Neither Italian nor world opinion was ready to assert that the King had acted unwisely in avoiding the danger of civil war and in making the colorful and popular leader of the Fascists responsible for public order instead of allowing him to continue to flout it

It is easy now to point out that the rise of Fascism was evitable, that in October, 1922, the Communist menace had waned, and that had the King been willing to sign the decree for martial law the army could have crushed and disgraced the Fascist upstarts All this may be the historical truth as seen at the present time, but it was not so obvious in 1922 Then Italy was recovering from a disastrous war Her government and her governors were generally discredited, for in the long run men who cannot gain the confidence of Parliament cannot hope to have the confidence of the people Italian nerves were suffering from shell shock Italian minds were not in a sufficiently contemplative mood to perceive that Italy's vacillating politicians were in the main successfully muddling through Italian psyches were as sheep who had gone astray They needed something to unite on, to rally around, and the Fascist movement, which appealed vaguely to their better sentiments, was at once the most attractive and the most blatant of available symbols

Fascism, of course, did not grow out of nothing Before Mussolini there had been two other leaders, in some ways more original and more remarkable men than the Duce himself, who had made known their ideas and who appealed to some of the same forces and fancies that later flocked to Fascism.

The first of these was Filippo Tommaso Marinetti and the second was Gabriele d'Annunzio

Marinetti, who was primarily a poet, was born in Egypt and educated in France He was the founder of the politico-artistic movement called futurism Futurism was chiefly a revolt against the conventionalities of the past, against Victorianism or, as the Italian futurists called it, *umbertismo*, after their harmless ex-King Umberto Futurism was the last issue of the Romantic movement, which cannibalistically turned on its ancestors and attempted to devour them The futurists attacked the medical profession, sick people, they thought, were weaklings and deserved to die They advocated the abolition of the police force on the grounds that people should be able to defend themselves They were against moonlight and romantic love, considering them both decadent They extolled war, violence, modern science, particularly airplanes, and all ultramodern and "unbeautiful" art

As an aesthetic school, futurism was preposterous, a monstrosity whose value lay in its startling and hyperbolic denunciation of the conformist decadence that was common in aesthetic circles in 1909, when Marinetti launched his Futurist Manifesto in Paris

The success of futurism, however, had little to do with its philosophical validity The movement responded to a need felt by many young artists who desired to break away from the stuffy commonplace of Victorianism They wanted to destroy order and live in excess The world had become for them too apollonian, too prosaic, and they sought to substitute for it, at least in their art, an orgiastic dream life of ecstasy and danger

Marinetti, however, was more than a poet, he was a politician of sorts, founder and leader of the Futurist party In the immediate postwar period, before it fused with Fascism, Marinetti's Futurist party ran in the Italian elections and Marinetti even succeeded in getting himself elected on the following platform

1 Sell all the art treasures of Italy abroad
2 Fill the art galleries with Futurist art
3 Abolish all taxes and live off the proceeds of the sale of the art
4 Build the largest navy in the world
5 Conquer the world
6 Regain the art treasures

This seems a rather silly program until one compares it with Hermann Goering's policy "Guns instead of butter" A country which produces armaments instead of food must use the armaments to rob others of their food or else it will starve to death The only difference, and it is a fatal one, between Marinetti's theory and that of Goering is that the latter was taken in deadly earnest by the vast majority of the German nation whereas the former merely amused the Italians

The important point, however, is not that the Italians did not take futurism too seriously, after all, it wasn't meant to be taken seriously It is doubtful that Marinetti himself was serious The important fact is that this kind of movement responded to a political as well as to an aesthetic need It showed the way to more serious movements, such as Fascism, that played successfully on the same basic dissatisfactions that futurism titillated

Gabriele d'Annunzio was also a poet His name is almost in itself proof of that fact, for who but a poet or a calypso singer would be called Gabriele d'Annunzio Principe di Montenevoso (Gabriel of the Annunciation, Prince of Snowy Mountain)? D'Annunzio exemplified another of the dying gasps of the Romantic movement He was a sensuous roué ever seeking a new thrill for his sated spirit He was not, however, without talent, for he possessed a wide erudition and a remarkable gift of expression Like Marinetti, D'Annunzio found the bounds of the literary world too narrow to satisfy his inordinate demands for self-expression, and so he too turned to the field of politics These three men, Marinetti, D'Annunzio, and Mussolini, met first on common ground, when each began to advocate war against Germany At that time, however, D'Annunzio was of the three by far the most important figure He had the greatest influence in getting Italy into the war, and he certainly had the most fun during the war

> Meanwhile d'Annunzio, amidst Our War, fought His War He had a rank in the Italian army and before the end was a colonel There was nothing to do, in the trenches of mud and stone, for the cavalry, to which he naturally belonged So he lived in whatever princely hotel or villa he chose, mostly in Venice, and from time to time he went on whatever gallant enterprise he pleased, in the spirit of those Arostean paladins whose whereabouts remained unknown to the Emperor Charlemagne Often he was driven in his car by his chauffeur, along the front, sometimes he would embrace a fallen hero, but he delighted especially in a kind of individual venture, largely advertised, as when he, with some Ulyssean companions on a motorboat, glided into a well-protected Austrian harbour just to make fun of the enemy, then safely sneaked back home, or as when he also with Ulyssean companions, flew over Vienna, an angel Gabriel, dropping instead of high explosives, leaflets of high sounding prose He was in the Army, he was in the Navy, he was in the Air Force ubiquitous But though he was officially registered as a commissioned officer in the Army, he preferred, and adopted on his own authority, a title of the Navy comandante, commander[2]

The war had been a lot of fun for the jaded D'Annunzio, and he was not happy when it ended His period of enforced boredom and inactivity, however, was short After the war Italy came up with some absurd pretensions to territorial aggrandizement in Dalmatia, the eastern coast of the Adriatic It

[2] Giuseppe Antonio Borgese, *Goliath* (New York, 1937), pp 112-113

is true that this territory had once belonged to Venice, much as England had once belonged to Rome It is also true that many of the fisherfolk still spoke or understood Venetian dialect The mainland, however, was solidly Slavic The Allies were willing to grant many of Italy's pretensions, but they did not sate the rabid chauvinists, and so D'Annunzio was able to lead a force in a march on Fiume, which turned out to be twentieth-century history's most successful attempt at writing a comic-opera libretto

Fiume, like Trieste, was a seaport of the Austro-Hungarian Empire on the Adriatic coast The city itself was of mixed population, but it was surrounded by a purely Slavic people Although it had been declared a free city at Paris, D'Annunzio did not hesitate to seize it and hold it almost a year and a half During this time he developed much of the pageantry of Fascism Again I turn to Borgese, a lesser man being unable to portray the preposterousness of the episode

> The people and the soldiers convened in the square beneath the palace of the government The poet, in his over-medalled military uniform, appeared, conveniently flanked by some of the staff, on the balcony There he delivered an elaborate harangue At the end he bolstered up as best he could his penetrating but rather effeminate voice, and asked the people for consent
>
> The people raised their right hands and arms, and answered Yes The gesture of the raised right arm, which was sooner or later the Roman, and, unbelievable but true, the German salute, had been picked up at random from classical museums, from gestures of Graeco-Roman orators and rulers, and perhaps also from the medieval romance of Carducci In antiquity it had occasionally been an attitude of oratorical vehemence It never had been the ordinary salute in the streets of Greece and Rome [3]

D'Annunzio, however, did more than talk He also wrote His masterpiece of that period was the constitution of the Regency of Carnaro, which was the name he gave Fiume The constitution is a rare and wonderful document, of particular interest to students of Italian history because it is based on the ancient *corporazioni*, the medieval guilds [4]

The Fiume incident, however, was all words and no deeds D'Annunzio was a poet, he was no administrator The occupation was able to continue for so long a time unmolested by reason of a set of fortuitous circumstances and its own preposterousness, which stunned the world

The president of the Council of Ministers at the time in Italy was Francesco Severio Nitti, an intelligent southern lawyer, who had been either opposed or lukewarm to Italian intervention in the war He was already reviled by

[3] *Ibid*, pp 158-159

[4] For an English translation of the constitution see Odon Por, *Fascism* (London, 1923), for the original and for D'Annunzio's major speeches at Fiume, see Gabriele d'Annunzio, *Per la più grande Italia* (Milan, 1932)

the nationalist forces in Italy and would have committed political suicide by stopping D'Annunzio, who was popular with the more vociferous and least responsible Italians Therefore he temporized In spite of this prudence, however, he was forced to resign in June, 1920, and after some delay was replaced by Italy's perennial Premier, Giovanni Giolitti This old man took as his Foreign Minister a young career diplomat, Carlo Sforza Sforza saw the necessity of peace with the Slavs and the removal of D'Annunzio First he made the Treaty of Rapallo and then he was ready to tackle the poet D'Annunzio was verbally adamant Again in the words of Borgese, "He swore with the most powerful impact of his biblical eloquence that he never would abandon the holy city and that the cowardly henchmen of Giolitti and Sforza should have to tread on his bleeding corpse before violating Fiume" [5] The Battle of Fiume, however, was short and virtually bloodless A shell burst on the façade of the government palace and D'Annunzio left "It is easy to say that the poet was too much of a poet to become a real Caesar, it would probably be mean to investigate the supposed crisis of his personal courage Much fairer is it to grant that when confronted with the necessity of irretrievable decisions, he loathed bloodshed, and his delicate artist's hands withheld the gesture" [6]

Benito Mussolini was not a poet He was no genial daring playboy like Marinetti whose poetic effulgence could burst forth in lines like "Thou reservest alone for me thy gasoline kisses, o pipe line," nor was he an effete erotic like D'Annunzio, who erected an altar to Artemis, the Greek goddess of chastity, in his garden and weekly had his love letters burnt before it [7] But Mussolini knew how many foolish Italians could be moved by a Marinetti or a D'Annunzio and saw no reason why they should not be more deeply moved by a Mussolini It was when Mussolini got this idea that Fascism became a menace

Mussolini appealed to the same emotions that Marinetti and D'Annunzio had aroused He attracted to Fascism practically all the futurists and the members of the Fiume expedition but knew that the poetic elevation which had infused the movement of Marinetti and D'Annunzio caused many a stolid bourgeois to shy away, even though he too was secretly in revolt There was little poetry in Fascism Anti-Marxist though it was, Fascism was permeated with a materialistic view which tended to legitimize its excesses The fact that it was earnest rather than poetic led many "respectable" people to join the movement who would have been ashamed of being either futurist or D'Annunzian

And thus Italy, which in the past had so frequently and so dolorously felt

[5] Borgese, *op cit*, p 168

[6] *Ibid* For the entire Fiume incident see also *The Remaking of Italy* (Harmondsworth, 1941), pp 195-199, 202

[7] I am indebted to a lecture by Professor Walter Starkie for this anecdote

the scourge of foreign tyrants, unwittingly placed herself at the mercy of a home-grown tyrant, who before he fell revealed traits in his own character and those of his cohorts which previously Italians had thought were inherent in Teutonic barbarians and Spaniards but were bred out of civilized peoples

If Benito Mussolini was not a poet, at least he was an administrator of exceptional ability He was not content only with building castles in the air with high-sounding phrases, he wanted practical results as well, and he got them

When he came to power in October, 1922,[8] nothing significant happened, from a strictly juridical point of view His was just another government in the succession of governments that had come and gone in the immediate postwar years To the man in the street his advent did mean a change, but perhaps a change for the better Mussolini promised law, order and discipline, and an end to the excesses of the postwar Marxists who in sporadic instances had murdered factory owners, spat on army officers, appropriated land, and otherwise perpetrated frightening and illegal deeds That the Fascists had been equally guilty of violence and illegality did not enter the head of the man in the street unless he was a Marxist or a strong labor man, because Fascist violence was directed against a specific group and did not disturb the mass of the population

The Fascist "revolution" of 1922 was accomplished with considerable bombast but virtually without bloodshed In the beginning it would hardly be just to call Mussolini a dictator The government was a coalition government, with most of the center and right parties represented In fact, the Undersecretary of Industry and Commerce in that first Mussolini government was a young deputy of the Popular party, the Catholic party of that period, named Giovanni Gronchi In 1948 Gronchi became president of the first Republican Chamber of Deputies and the unofficial "opposition" leader within De Gasperi's party

The dictatorship advanced by easy stages, as if the government were testing out the people to see how much they would take As they took more and more, the people were increasingly despised by the ruling Fascist clique and before their twenty-odd years of disgrace were over they were forced to suffer indignities to which not even the Germans were ever subject

Mussolini's verbal lashings were the first indication of the things that were to come His speech to Parliament when he was seeking his first vote of confidence was of a signal arrogance In this speech Mussolini boasted that if Parliament refused him the vote of confidence he would seize power anyway and so much the worse for Parliament Instead of reacting with dignity to this insolence, Parliament seemed to be swept by a wave of masochism and submitted This was the beginning of the end of the free Italian Parliament

[8] See Gaetano Salvemini, "Anniversario, che cosa fu la Marcia su Roma," *Il ponte*, IV, 1948, pp 982-995

Two years later Mussolini had to hold an election Not seeing a majority in sight for his party, he had a new electoral law written giving the party which received the plurality two-thirds of the seats in the Chamber The Fascists, by forming a coalition with the right, guaranteed themselves this plurality After this artificial majority was gained, there was no way to stop the Fascists as the *Statuto* of Carlo Alberto did not require any special amendment process and left Parliament legally free to alter it at will Thus it was that all the Fascist reforms, even those that most travestied the spirit of the *Statuto,* were quite within the letter of the law

Shortly after these elections the Fascists suffered their most serious setback This was the result of the reaction against the murder of the Socialist deputy Giacomo Matteotti, which happened in June, 1924 High Fascists, not excluding Mussolini, were implicated, and Italian public opinion was deeply shocked It seems that many Italians got a vicarious thrill out of the ugly words of Fascism, but when the words crystallized into a bloody deed, countless Italians returned to their senses Had it been necessary to hold an election after the murder, possibly the Italian people would have thrown Mussolini out of office Instead, the murder occurred after the Fascists were well entrenched in power and able to withstand the waves of protest and indignation

The first basic change made by the government after the electoral law was the gag law, taking away freedom of the press This law was issued in decree form July 15, 1924, and later, at the leisure of Parliament, turned into a regular law The next major step occurred in 1926, when the much publicized corporate state was put into operation

The corporate state, which more properly should be called the corporate system, was not a Fascist idea, it was a contribution of the Nationalists through one of their leaders, Alfredo Rocco, who took the idea from the French Catholic theorists, particularly from a fervent monarchist named René Charles Humbert, Marquis de la Tour du Pin Chambly la Charce, which gentleman in turn, with a true devotion to his liege and lord, gave entire credit to the then pretender to the French throne, the Comte de Chambord [9] The corporate system had become the classical Catholic suggestion of the way to insure economic coordination and labor peace The theory was that economic self-interest should be subject to controls in the interest of the community as a whole in the same way that individual interests were controlled, and that economic groups as well as territorial groups should be bases of the state and should be represented in its institutions To carry out this system it was necessary to create a series of institutions to represent all possible economic and labor groups and to give each worker a vote in one of the groups and at the same time to set up a series of special courts within the regular judicial

[9] René Charles Humbert, Marquis de la Tour du Pin Chambly la Charce, *Vers un Ordre Social Chrétien Jalons de Route 1882-1907,* 5th ed (Paris, 1929) The major essay on the corporate system was first published in 1883

system to handle collective and individual labor disputes Since all labor disputes were now to be subject to the judges' decisions, strikes, lockouts, and other means of economic warfare were outlawed and the state and the general public would be free from the menace of internecine economic strife

The theory of the corporate system sounds good enough, but its practice, in Italy as elsewhere, has left much to be desired [10] There is nothing basically undemocratic about the idea in theory, but the practice in Italy certainly made but little pretense at democracy

Afredo Rocco, the man who sold the corporate system to the Fascists, is one of the unpleasanter figures on the Italian political scene Rocco had been one of Italy's most respected law professors and when writing on purely technical subjects showed a brilliant mind [11]

The institution of the corporate system served two purposes for the Fascists For the first time they could claim to be making an innovation of social importance and consequently had something to ballyhoo But more important, it gave them a strangle hold on the economic life of the country and permitted them to create thousands of additional soft jobs for deserving Fascists The corporate system went into effect with the law of April 3, 1926, no 563, but it was not fully implemented until the creation of the corporations,[12] or guilds, many years later It was the theory of the corporatists that the corporations, institutions in which capital and labor collaborated for the realization of common ends under the tutelage of the state, would be formed spontaneously by the professional associations of workers and management to which the corporate system gave legal recognition in 1926 By 1934, however, only one corporation had been established "spontaneously" and so the remaining corporations were instituted by decree according to the provisions of the law of February 5, 1934

The year 1926 was a big one for the Fascists, they took over not only the economic system but control of justice as well, with the establishment of the Special Tribunal for the Defense of the State This court, which was not bound even by the inferior Italian codes of procedure, condemned persons who were accused of crimes against the state It was given retroactive juris-

[10] See Gaetan Pirou, *Essais sur le Corporatisme* (Paris, 1938)

[11] Herman Finer, *Mussolini's Italy* (New York, 1935), p 236 For Rocco's own accounts of his system see Alfredo Rocco, "Crisi dello stato e sindacati," *Politica*, VII, 1920, pp 1-14, *La trasformazione dello stato* (Rome, 1927), and "Politica e diritto nelle vecchie e nelle nuove concezioni dello stato," *Nuova antologia*, CCCLVIII, 1931, pp 356-390 For accounts in English of the pre-Fascist corporate theories see John Clarke Adams, "Some Antecedents of the Theory of the Corporate System," *Journal of the History of Ideas*, III, 1942, pp 182-189, and Svend Ranulf, "Scholarly Forerunners of Fascism," *Ethics*, L, 1939, pp 16-34

[12] The term *corporation* is a misnomer, perhaps resulting from a careless journalist The Italian word *corporazione* should have been translated *guild* when used in this sense

diction and its judges did not need to have a law degree, provided they were good Fascists [13]

By the law of April 3, 1926, no 660, promulgated the same day the corporate system was instituted, the prefects were given a strangle hold over local government With this law the power of the Fascists was secure, opposition was stifled, and the Fascists were in control of everything that mattered

Then for nine years the dictatorship functioned quietly Mussolini undoubtedly had talent as an administrator The majority of the Italians undoubtedly were reasonably content Everything was done to make the citizen grateful to the ubiquitous government Real wages were slashed, but government services increased There was pageantry galore to amuse the crowds None of the old symbols were destroyed, one could and was encouraged to revere the King, the Pope, Italian heroes of the past, many of whom would have been nauseated at Mussolini But although bearers of all the old symbols of power were still around, standing nearby there was a Fascist to control their actions In no other European country was there such a difference between the law and the practice Reading the *Statuto* and even the various laws, an unobservant man would hardly realize a revolution had occurred Here there was none of that mania to destroy the old and build anew that ravaged Germany under Hitler The key word of the Fascist government was *duplicità*, which means both duplicity and duplication For every official of the regular government there was a Fascist official, representing the unofficial government, and often it was the latter who held the real power By the side of the legislature there was the Great Council (*Gran consiglio*) of the Fascist party By the side of the regular courts there was the Tribunal for the Defense of the State By the side of the army there was the Fascist militia By the side of the prefect was the provincial head of the party Even the conductors on the railroad trains were flanked by armed Fascists But this was duplicity also in the English sense, for it made of the real government a façade, behind which the Fascist party intrigued, more for its own good than for the good of the country [14]

There was, however, an extenuating factor if not a saving grace which made Fascism bearable for a much longer period than otherwise would have been possible, and this was that the Fascists did not believe in anything They were not fanatics and they were not bloodthirsty By and large they were tolerant of anything that did not interfere with their own comfort Certainly it was not pleasant to be an anti-Fascist in Italy during the dictatorship of Mussolini, but few people lost their lives for it The Italian people had been traditionally misgoverned The acts of petty tyranny displayed by the Fascists neither excessively shocked nor alarmed them Governments, they thought, were like that And so though the anti-Fascists in Italy suffered, relatively

[13] Herman Finer, *op cit*, p 242

[14] Piero Calamandrei, *La funzione parlementare sotto il fascismo* (Rome, 1928)

few of them became martyrs, and, what is more important for the future of Italy, few of them were killed, at least in these early years

The second phase of Fascist tyranny started after the successful Ethiopian war By this time Mussolini had seemed to lose touch with the people and almost to despise them Needlessly he copied many of the worst aspects of Hitlerism and then instituted further indignities of his own contrivance The anti-Jewish legislation in Italy was particularly stupid There are few Jews in Italy and these are either very poor or professional men The Italian merchant does not fear Jewish competition as he has proved himself capable of competing with anyone Furthermore, the Italian Jews are primarily Levantines and do not display the aggressiveness and the promiscuous spending conspicuous among the Yiddish-speaking Jews Italy had many problems, but no Jewish problem had ever existed, so Mussolini created it It is to the credit of the Italian people that he did not succeed He drove the Jews to despair by denying them the right to an education and to practice the profession of their choosing, but the Italian Jews almost to a man can testify from personal experience that the people did not have their hearts in this senseless oppression and showed their repugnance for it by countless acts of kindness, sacrifice, and bravery toward the Jews

Fascism's own contributions to petty tyranny were many, but two will suffice here as illustrations In the Italian language and in some of the dialects the form of polite address is the third person singular, *lei*, instead of the second person plural, *voi*, common to French and English One fine day Mussolini made it a misdemeanor to use *lei* and required everyone to use *voi* This was as if the President of the United States should make it a crime punishable by a five-dollar fine ever to use *you* in addressing a single person, and should require the use of *thou*

If by this bit of grammatical tyranny Mussolini showed his scorn of the rights and feelings of the people, he demeaned even more cruelly the very Fascists who had put him in power by the enforcement of another of his whims Fascists, he decided, should be athletes, and consequently he held sporting events in Rome in which the party chieftains had to perform His favorite stunt was to force pot-bellied provincial hierarchs to run and jump through burning hoops These daring Fascist exploits were duly filmed and shown in all of Italy's movie theaters, where they were particularly popular with the then growing number of Italy's anti-Fascists

And then in June, 1940, Mussolini made the fatal decision to stab France in the back He who was all swagger and no guts could not understand the British, he thought they were through He was wrong, and thus Fascism was doomed

By July, 1943, it was obvious to many members of the elite Great Council that the war was lost Some of them, like Count Dino Grandi, Italo Balbo, and Giuseppe Bottai, possibly had opposed the war all along, but if so they

had not been powerful enough to overthrow Mussolini In July, 1943, however, Mussolini could no longer control the Council He was deposed and arrested by the King, who appointed General Badoglio to take his place In September Badoglio signed the armistice and Italy was in one sense out of the war

Italy's real war, however, continued longer than that This was the partisan war, behind the German lines Mussolini had been freed from prison and taken north by the Germans In a little resort town of Salò on Lake Garda he set up headquarters and there began the most frightful government an Italian ever headed It was called the Fascist Republic In a desperate bid for popularity Mussolini pandered to the masses, offering them drastic socialist reforms, but found no blandishments could hide the crimes and the obscenities of the Nazis and their Fascist sycophants

The partisan war was fought by all kinds of persons The Communist brigades were among the best organized and disciplined but all parties were represented Perhaps the majority of the partisans, however, had no party affiliation They were persons who had escaped to the mountains to avoid conscription in the German or Fascist armies or in labor divisions bound for Germany Many of them had personal scores to settle with the Germans or the Fascists

The most glorious of the partisan groups were those of the *Giustizia e libertà* (Justice and liberty) movement, which later formed the Action party *Giutizia e libertà* was founded by the Rosselli brothers, Carlo and Nello, who were murdered in Paris on Mussolini's order These groups were composed in good part of intellectuals, of the non-Communist left They did more than their share of the dangerous work—liaison with the Anglo-American troops—and they had much more than their share of casualties

Although partisan fighting is necessarily guerrilla warfare in which overall strategy is minimized and local initiative is most important, all the partisan forces of Italy were loosely united under a single supreme commander The man chosen for this post was a simple and shy high school teacher who before the enormity of Nazi-Fascism rose to the position of a national hero This man, Ferruccio Parri, symbolizes perhaps better than anyone else the hope for Italy's future If there are enough little men throughout Italy with his sobriety and his ideals, Italy will build herself a sound democracy

With the capitulation of Germany in 1945, Italy, which for two years had been cut in two by the war, was finally reunited In the meantime Badoglio had been succeeded on June 18, 1944, by Ivanoe Bonomi as President of the Council of Ministers, and the government was a pastiche of the self-appointed leaders of all the anti-Fascist parties Bonomi had held the same position briefly in 1921-1922 After the unification, on June 21, 1945, Bonomi was replaced by Parri, representing the Action party, and Parri in turn, on December 10, 1945, was replaced by Alcide De Gasperi, who had served,

usually as Minister of Foreign Affairs, in all the previous post-Fascist governments Since that time De Gasperi has headed a series of successive governments, and after the smashing victory of his Christian Democratic party in 1948, is expected to remain in power at least until the 1953 elections

## Chapter 33

# The Italian Constitution

THE NEW Italian constitution was prepared by the 556 deputies the Italian people elected to their first Constitutional Assembly on June 2, 1946, the day they voted out the monarchy This body served in the double guise of Constitutional Assembly and *ad interim* legislature for almost two years Its most important act, however, was the ratification of the constitution on December 22, 1947, by a vote of 453 favorable, 62 opposed, and 31 absent Thus ratified by the Assembly the constitution was promulgated by the provisional President of Italy, Enrico De Nicola, and became effective ten days later on January 1, 1948

For the past hundred years Italy, or such of her territory as was under the house of Savoy, was governed under the constitution which the people obtained from Carlo Alberto in that year of popular rebellion throughout Europe 1848 This document, known as the *Statuto*, was a satisfactory basic law until 1926, when Mussolini found that some of its provisions cramped his aspirations From that time on it was honored more in the breach than otherwise, but whatever he may have done to its spirit Mussolini never formally abrogated it

The 556 men to whom the Italian people entrusted the high function of writing Italy's new constitution were for the most part a fine and representative group On the whole, the deputies were on the order of the framers of our own constitution men who dreamed of freedom under tyranny and who knew the price of liberty They had bought their liberty at this price and they valued it accordingly There is a natural and inexorable law to the effect that the only way to appreciate something is to earn it The rich man's son cannot value the money he inherits, nor can the free man's son fully appreciate his freedom

To the framers of Italy's new constitution the value of freedom was no academic concept learned by rote in high school civics courses Included in the body were eminent pre-Fascist statesmen, like Vittorio Emanuele Orlando, Italy's chief representative at the Versailles peace conference, former premiers Francesco Saverio Nitti and Ivanoe Bonomi, and Foreign Minister Count

Carlo Sforza (the latter two men have served in the same high offices in the post-Fascist period) Other prominent figures of that era in the Constitutional Assembly include Italy's leading philosopher, Benedetto Croce, and her most eminent economist, Luigi Einaudi, elected the first President of Italy in May, 1948 These men, as well as many lesser figures among the deputies of their age and experience, were anti-Fascists of long standing While the outside world extolled Mussolini, they waited quietly, keeping faith with democracy and with the Italian people

Not all the deputies, of course, were old men Young men and young women also had their part in framing the new constitution Partisan leaders, underground leaders, were there in numbers, and there were many deputies who knew what it meant consciously to take a man's life, when the choice was between slavery and freedom, between Nazism and decency Many of us know Lowell's lines, "Once to every man and nation comes the moment to decide, in the strife of truth with falsehood for the good or evil side" Modern Italian leaders made that choice, not as part of a pious Sunday catechism but when the chips were down and they were playing for their lives

A Constitutional Assembly of 556 men, even had it been composed entirely of men possessed of the caliber and fired with the zeal of the deputies described above, would have been an unruly body for constitution writing The Assembly therefore acted wisely in appointing a committee of seventy-five members, chosen proportionately among the parties but including the best authorities on constitutional issues, and delegating to this committee the function of drafting the constitution

The Committee of Seventy-Five, as it was generally called, met on July 1, 1947, and elected as its president the independent deputy Meuccio Ruini, president of the Council of State, Italy's highest administrative tribunal The committee was then split into three subcommittees, charged with drafting respectively the parts of the constitution dealing with (1) rights and duties of citizens, (2) the constitutional organization of the state, and (3) social and economic rights and duties The three sections elected as their presidents respectively the Christian Democrat (Catholic) Umberto Tupini, the Communist Umberto Terracini, and the Socialist Gustavo Ghidini The second subcommittee, which was by far the largest, was again subdivided Terracini himself headed the subsection dealing with the executive power, the Republican Giovanni Conti headed the subsection dealing with the judiciary, and the Christian Democrat Gaspare Ambrosini headed the third subsection, which dealt with regionalism Thus all major democratic parties were represented in top positions, but in such a way that on each specific subject a representative of a relatively neutral party presided The Communists, for instance, were given the relatively non-controversial section on the executive The Socialist Ghidini was chosen as a buffer between Com-

munists and Catholics on social-economic rights, and the Catholic Ambrosini served the same purpose between Marxists and Republicans on the regional issue

Many of the Committee of Seventy-Five, however, were not very active in the actual drafting and left it for the most part to the leading legal brains of the various political parties concerned With the exception of some of the groups far to the right, all parties made positive contributions to the constitution, but it was mainly the work of Christian Democrats, Communists, Liberals, Republicans, and the Socialists, with the Christian Democrats, as the preponderant party in Parliament, having the predominating voice

When the various subsections and subcommittees had finished their work, the Committee of Seventy-Five appointed a committee of eighteen to coordinate the constitution and to put it into final form for presentation to the Constitutional Assembly This latter committee was composed of the various presidents of the committees, subcommittees, and subsections listed above, as well as of such outstanding law professors as Piero Calamandrei (Action party), Tommaso Perassi (Republican), Giuseppe Grassi (Liberal), Egidio Tosato (Christian Democrat), and Costantino Mortati (Christian Democrat), top political figures like Togliatti and the Liberal party leader Marquis Roberto Lucifero, and Christian Democrat economists Giuseppe Dossetti and Amintore Fanfani, later Minister of Labor

After the redraft by the Committee of Eighteen was finished it was adopted with only slight modifications by the Committee of Seventy-Five and presented to the Assembly on January 31, 1947 During the rest of 1947 the Assembly discussed the constitution article by article, making numerous amendments and changes Few of these changes were basic, however, and most of them reflected the increasing conservatism of the nation as 1947 brought about more stable and normal economic and social conditions Finally on December 22, 1947, the Assembly approved it by an overwhelming vote on a secret ballot

The document which resulted from all this travail is a compromise, and as such it is really satisfactory to no one Fortunately, however, in spite of the strong differences of opinion among the various political groups that cooperated in its formation, on many points there was common agreement The *Statuto* was fresh in the minds of all the deputies, it was the traditional constitution of Italy Although no one thought seriously of reestablishing this constitution minus its Fascist graftings, they used it nevertheless as the basis for discussion and in good part reimplemented it in the new constitution, adding only a few major institutional innovations

The framing of the new constitution, however, was a lesson in active democracy for the new Italy Italy's multi-party system did not result in the formation of a majority coalition which dominated the Assembly, rather, each party had to compromise on the various issues and most of the major

innovations in the new constitution were the results of separate alliances among the parties

The structure of the Italian government is basically altered in only four instances by the new constitution The most obvious and least important change is that from a monarchy to a republic This change was brought about by a plebiscite held June 2, 1946, simultaneously with the election of the Constitutional Assembly This institutional question, therefore, was decided by the voters and not by the deputies, who were merely called upon to carry out the previously expressed will of the voters The Assembly, however, faithful to the traditions of the *Statuto*, and mindful of the Fascist dictatorship, adopted a weak President, after the French model, and as in France determined that he should be elected indirectly, by Parliament, with both houses sitting together, but with the inclusion of three additional representatives, not members of Parliament, for each region (Art 83) [1]

A more basic and far-reaching change is the creation of the region as a unit of local government In 1860 the Italian regions, like the French provinces before them, were purposely deprived of any governmental functions in an effort to break down regionalism and create a stronger centralized authority, and all Italy was divided into provinces, copied after the French *départements*, each of which was administered by a prefect, appointed by and directly responsible to the Minister of the Interior Sponsored by the Republican party, one of the major planks of whose platform is decentralization and regionalism, a drastic reform in local government has been instituted, and the old regions of Italy have been reconstituted as government units, with their own elected assemblies and with power to handle many local matters

The Republicans favor this system strongly because they believe that democracy begins at the local level and that the way to get efficient government is to bring the government back to the people The movement also had considerable Catholic support—among other reasons because like good Machiavellians they felt that the more decentralized the government is, the more difficult it is for a coup d'état to be carried out successfully The Communists, Socialists, and Liberals were opposed to regionalism As might be expected, however, after the Communists were defeated in the 1948 elections, they became strong supporters of regionalism and the victorious Christian Democrats lost their ardor for that cause These about-faces are paralleled in American history by the Republicans' and Democrats' attitudes toward states' rights Whichever party is in power opposes them, while the party out of power staunchly supports them

A third significant change, and one adapted directly from the United States,

[1] For the election of President Einaudi in the spring of 1948 no additional regional representatives were present This omission was sanctioned by Article 2 of the transitory articles of the constitution

is the Constitutional Court, the first court in Europe entrusted with the power to declare acts of the national Parliament, as well as of the regional parliaments, unconstitutional The Constitutional Court is an innovation of the new constitution which will undoubtedly be the center of controversy for some time to come Unfortunately the courts in Italy have no such high prestige as in the United States, and the court will have to be judicious politically as well as judicially in its first years if it wants to overcome the reserve which many people are likely to feel toward it In Europe, where constitutions are generally much less rigid than in the United States and it is possible to amend them by doing little more than going through the regular procedure for passing an ordinary law, there has been of course less need for a constitutional court It is doubtful that the Italians would have set one up merely for the task of judging the constitutionality of the laws Parliament passes But since the constitution also sets up regions and gives them legislatures with considerable autonomy, it was necessary to empower some institution to settle conflicts of jurisdiction between the regions and the central government and to declare invalid those acts of the regional legislatures which were ultra vires Having created the Constitutional Court for this purpose, the Italians considered the additional power to judge the constitutionality of acts of Parliament more or less incidental

It should be noted that the Italian Constitutional Court has original jurisdiction and that other courts are not competent to handle constitutional questions It does not function as an ordinary supreme court or court of cassation (such a court exists separately) Thus it will not be necessary for Italians to wait years, as is often the case in America, before they can have an authoritative opinion on a question of constitutionality The advantages of the Italian system are obvious There is also the disadvantage, however, that the court will be called on to make decisions of far-reaching political importance when the issue is still being hotly debated by the public There is doubtless a certain benefit in the cooling-off period which the American system gives the court, letting it decide the issues involved after matters have somewhat calmed down, passions are spent, and reflection operates again in relative tranquillity

A fourth major innovation is the extreme independence the new constitution gives the magistracy, which parallels the change made in postwar France The Italian constitution envisages a virtually self-perpetuating judicial system It is to be headed by a Supreme Council of the Magistracy, composed of the President of the Republic, the Chief Justice of the Court of Cassation, and the Chief Prosecutor of the Court of Cassation, all ex officio, as well as a number of regular members, serving for four-year terms and not immediately reeligible This Supreme Council of the Magistracy appoints, removes, and promotes all judges

The new Italian system is obviously an attempt to remove the courts from

the danger of undue political influence. The Fascist era is all too fresh in the memories of the framers of the constitution, who remain clearly aware of the pressure on the courts during those years Only time will tell, however, if the present one is a good solution to the problem It will protect the judges only so long as the constitution is not changed, and a change in the constitution needs only two majority votes in both houses taken at a three-months interval No government too weak to change the constitution would be likely to be strong enough seriously to interfere with the magistracy anyway The solution also presents some intrinsic weaknesses There is always the danger that the legal profession may become too ingrown Although the law is such a complex and intricate web that laymen need the help of professional experts to find their way through it, lawyers and judges can become so fascinated with the unrealities of the law as to forget that it has no validity except as it effects the realization of social justice It is possible, therefore, that if judges are left entirely to themselves, as they will be under the Italian system where they are not even originally appointed by an outside authority, as is the case in our federal system, they will forget in their impassioned studies of legal subtleties that the purpose of law is to serve the public, not to attain a logical aesthetic perfection

Other important instances of compromise which, however, did not result in basic institutional innovations occurred with respect to the Senate and the inclusion of the Lateran treaties Here the parties split along different lines

The old Italian Senate had been an appointive body composed of Italy's outstanding men, who in honor of their services were made senators by the King The appointment was for life In this way the Senate became a sort of nonhereditary House of Lords Like the British Lords, many Italian senators rarely attended the Senate Unlike the House of Lords, however, the Italian Senate maintained equal power with the lower house The opposing protagonists in the fight over the new Senate were the Communists, who wanted a weak Senate or better still none at all, and the Christian Democracy, which wanted to create a corporate body representing interests rather than parties The compromise that was finally reached gave both houses equal power and based each of them on political representation

The inclusion of the Lateran treaties in the constitution (the famous Article 7 of the constitution) was made possible only by the wholehearted support of the Communists for the Catholic position Article 7 not only makes the Lateran treaties which Mussolini signed with the Vatican an integral part of the constitution, it further stipulates that they cannot be altered by he Italian parliament without the consent of the Pope Not only is the Pope in this way given a most extraordinary power to limit and contain the will of the Italian legislature, but some articles of the Lateran treaties are in direct variance with articles of the present Italian constitution Article 7 was strongly opposed by the Socialists of all shades as well as the Liberals and

Republicans, but the Communists, caring little for freedom and much for the rural vote, came to the aid of the Catholics in their hour of need Only one Communist, the Latin scholar Professor Concetto Marchesi, had the courage to flout party discipline on this issue and to refuse to vote with the Catholics

The Communists must bear a major share of the responsibility for the inclusion of the Lateran treaties in the constitution, as without active Communist support the Catholics would never have been able to win on this issue Yet this action has not prevented the Communists from bitterly attacking the present "black" government By supporting the inclusion of the Lateran treaties in the constitution the Communists apparently expected to win both ways by giving the lie to those who claimed they were anticlerical and later winning anticlericals through their attacks on the "confessional state" That they might alienate both does not seem to have occurred to them

With the establishment of a bicameral system Italy may have created for herself some future difficulties of a serious nature By giving the two houses equal powers and requiring the government to have the confidence of both houses while at the same time failing to provide regularly for simultaneous elections in both houses, the constitution has made it more than likely that Italian governments will experience periods of instability Fortunately, for the present there is nothing to fear along this line as the 1948 elections were held simultaneously and the same party, the Christian Democracy, received a majority in both houses After five years, however, when the Chamber of Deputies is reelected and the present Senate still has another year to go, it is not improbable that the task of forming a government agreeable to both houses will be a difficult one Should such a task be unsurmountable, the President of the Republic will be called upon to exercise his power to dissolve one or both of the houses (Art 88) This power, however, is denied him during the last six months of his seven-year term of office (Art 88)

To counteract the difficulties that would beset a government faced with two houses of equal power and contrary persuasions, the Constitutional Assembly adopted certain provisions intended to strengthen the government vis-à-vis Parliament The most important of these concerns the vote of no confidence No such vote can be taken until the petition is signed by 10 percent of the members of the house concerned and until three days after its presentation (Art 94) The government is further strengthened by the fact that the President of the Council of Ministers assumes his office upon presidential appointment and before he receives his vote of confidence from the houses of Parliament Before he must seek parliamentary approval he has ten days of grace (Art 94) Although this difference from the French system may appear slight, it is of considerable psychological importance

Perhaps the greatest weaknesses in the Italian constitution, however, are found not in the juridical part, which after all was taken in good measure from the former Albertine *Statuto*, but rather in what might be called the sociologi-

cal part, if it is possible so to designate a section of an instrument which might seem essentially juridical in all its aspects These weaknesses were brilliantly set forth by Calamandrei in his initial speech on the constitution before the Assembly Here there is great confusion between what can be and what ought to be The constitution will cause the Italian government unnecessarily to lose credit in the eyes of the Italian people because it foolishly forces the government to assume obligations toward the people which it is in no position to fulfill Article 32, for instance, expresses a splendid idea when it states, "The Republic protects the health of the individual as his fundamental right and as an interest of the collectivity, and guarantees free medical treatment to the poor" For the predictable future, however, this statement can be no more than a pious wish, as the government will not be in a financial position to carry it out Calamandrei pointed out that pious wishes definitely have their place, even in constitutions, but that as far as constitutions go that place is in a preamble where they become part of the ethical principles on which the constitution is based, rather than a part of the substantive law, which is supposedly operative Calamandrei's suggestion that such articles be relegated to a preamble was defeated, however, as the Marxists felt these principles would carry more weight if they were found in the body of the constitution

Compromise at its worst is found when articles like no 3 and no 30 are juxtaposed The second paragraph of Article 3 reads, "It is the duty of the Republic to remove all obstacles of an economic and social order which limit in fact the liberty and equality of citizens and impede the full development of the human personality ," and the third paragraph of Article 30 reads, "The law assures illegitimate children all legal and social protection compatible with the rights of members of legitimate families" It is probable that the Socialists and Communists wrote the second paragraph of Article 3 and the Catholics wrote the third paragraph of Article 30 Nevertheless one or the other of the articles cannot be effective and the resultant ambiguity as to the relative rights of legitimate and illegitimate children and parents' obligations toward them can only succeed in confusing lawyers, judges, and laymen and in lowering the prestige of the constitution

The Italian constitution, however, is by no means all bad Except where the unreconcilable differences between Catholics and Marxists led to illogical and inoperable compromises, or where the rosy-hued optimism of the leftists led them to commit the government to courses of action which though admirable are quite impracticable, the constitution is in the main the excellent document that the prestige of its framers led us to expect

The new constitution includes a complete bill of rights, based on American and French models, granting the citizen roughly the same civil liberties he enjoys in this country except presumably where these rights run afoul of the Lateran treaties, which, for instance, deny equal rights to renegade priests The greatest innovation for Italy with respect to civil liberties is found more

in the procedural than in the substantive rights It will be interesting to see to what degree the Italian people will insist on and the government will grant in practice those procedural safeguards of individual freedom which are an essential part of our democracy

As is the case with the French constitution, the Italian constitution can be readily amended It is sufficient that an amendment be passed by an absolute majority of both houses acting separately, at least three months after the same amendment has passed both houses by a majority of the members voting If within three months of its promulgation one-fifth of the members of one house, or 500,000 voters, or five regional councils request it, the amendment is put to a referendum If, however, two-thirds of the members of each house approved the amendment at its last reading, no referendum is possible (Art 138)

It is quite foolhardy, however, to predict how a constitution will work Alexander Pope put into a couplet more political sense than many political scientists profess when he said, "For forms of government let fools contest, whate'er is best administered is best" Institutions are empty shells without men to animate them The success of Italy's constitution is in the hands of Italy's public servants If she can achieve and maintain a standard relative to that of her Constitutional Assembly, not only in her subsequent legislatures but in her administration and among her magistrates, she will indeed be a fortunate country To the degree that she fails in this, her government will also fail Italy's traditions differ widely in this respect Time alone will tell whether the new Italy will tend more toward the examples of Naples or of Venice, for the former was the worst-governed kingdom of Europe and the latter enjoyed almost a thousand years of stable and efficient government.

Chapter 34

# The President, Parliament, Government, and Judicial System

## THE PRESIDENT

THE President of Italy is no dictator In powers and attributes he closely resembles a constitutional monarch He is modeled on the French President, who it will be remembered was originally intended to give way to a king

Not only does the President of Italy lack the constitutional powers of the American President, he also lacks the extralegal influence and prestige which the latter enjoys Since he is elected indirectly, by Parliament, he is not in the position of the American President vis-à-vis the legislature, that is, he cannot go over the head of the legislature claiming that he is the people's choice Neither will he be the head of a powerful political party, for such men will pass over the presidency and seek the office of President of the Council of Ministers The Italian presidency is made to suit an elderly man, universally revered for his moral stature as well as for his intellectual attainments, who, being above politics, can be respected by politicians and laymen alike

As is the rule in countries with cabinet government, the President is the figurehead executive, charged primarily with ceremonial functions He receives dignitaries, bestows honors, and has whatever consolation is in the fact that all official acts are performed in his name As long as the government runs smoothly he has little other power and it is the cabinet and Parliament who are responsible for policies and their execution When a cabinet falls, however, it is the President who selects the new President of the Council of Ministers, and whenever it is not possible to get a stable government and a vote of confidence from both houses, the President is empowered to dissolve either Thus in periods of government crisis, the President becomes considerably more than a figurehead, and the discretion with which he uses his powers at these delicate moments will have a vital effect on the prosperity of the Italian nation and the success of its government Neither the provisional President, Enrico De Nicola, nor President Luigi Einaudi has as yet

been called on to resolve a serious crisis, and with the present Christian Democratic majority in both houses it seems unlikely Einaudi will be required to perform other than the ceremonial functions of his office, at least until the new elections, which are not scheduled until 1953 The years immediately following those elections, however, are likely to be difficult ones for the President, owing to the fact that the terms of office for deputies and senators are five and six years respectively and that consequently the two houses of Parliament will normally be renewed simultaneously only once in thirty years If in 1953 there is any pronounced swing away from the present party alignments, it may be impossible to get a government which can command the confidence of both houses, and then it will be up to the President to determine whether or not it is advisible to dissolve one or both the houses It is probable, of course, that in such a case the President would dissolve only the Senate, on the grounds that the newly elected Chamber of Deputies more nearly represented the will of the voters

The President also enjoys a limited veto power, in that he may request a reconsideration of an enactment by both houses before it becomes law If on reconsideration the bill is passed again by both houses, the President must put it in operation (Art 74)

The President himself serves a seven-year term In case of illness or death, he is temporarily replaced by the president of the Senate, until the President becomes well or a new one is elected During the last six months of his term of office the President is deprived of his authority to dissolve the houses of Parliament

Besides these legal prerogatives, the President of Italy, like the King of England and the President of France, is in a position to exercise a considerable degree of personal influence He is at once in the center of politics and above politics, and if he is a person worthy of respect his advice may be sought and followed by the cabinet President Einaudi's preeminence as an economist, for instance, makes it probable that the De Gasperi government is careful to consult him before embarking on changes in its economic policy

## *PARLIAMENT*

The Italian Parliament is a bicameral institution composed of a Senate and a Chamber of Deputies Unlike the bicameral legislatures of England and France, the two Italian houses have substantially equal powers Bills must be approved by both houses before they may be enacted, and the government must have the confidence of both houses in order to hold office In spite of this formal equality, however, the chamber remains the more powerful and more important of the houses, and the Senate, like the French Senate of the Third Republic but to a lesser degree, tends to be a home for aging and semiretired politicians

Italy had a bicameral system under the old *Statuto*, but that Senate was

composed of persons appointed senators for life by the King The new republican Senate is popularly elected Both under the *Statuto* and under the new constitution the lower house is popularly elected

When acting as legislative bodies the two houses of Parliament function separately Bills can be presented in either house Besides all members of Parliament, the government and the people can initiate legislation The government presents bills to the houses directly if it so chooses, and the people may propose legislation to the houses by a petition, signed by at least 5000 voters (Art 71) Every bill is sent to a committee and then voted on by the house in which it was presented The vote is taken first article by article and finally on the whole bill Urgent measures may be treated with a shortened procedure Bills may be taken out of committee and voted on at the request of (1) the government, (2) a tenth of the members of the house, or (3) a fifth of the members of the committee (Art 72)

Both houses of Parliament must authorize the ratification of treaties if they are of a political nature, if they concern arbitration, modify the law, or authorize expenditures (Art 80)

When the houses of Parliament perform other than legislative functions, they usually meet in joint session In this guise they elect the President of the republic and a third of the members each of the Constitutional Court and the High Council of the Magistracy

Members of the government may appear before either house of Parliament whether or not they are members of that house In fact, they are frequently called on to answer questions (*interpellanze*) addressed to them by members of the opposition dissatisfied with any aspect of the administration After the answer has been made, the questioner usually states whether or not he is satisfied Often he is not

Voting on important issues is usually done by a roll call A name is chosen by lot to be the first one called, and the other names are then called in alphabetical order After the roll call has been completed the names of those persons who failed to answer the first time through are repeated The votes are then totaled and announced On some occasions, however, a secret ballot is substituted for the roll call Under this system it is the voter's individual conscience rather than the will of his party which decides his vote

## *THE GOVERNMENT*

The government (*governo*) is composed of the Council of Ministers, the group of political personalities who surround the President of the Council of Ministers, often called improperly the Premier or the Prime Minister The President of the Council of Ministers and his cabinet are the functioning executive of the country, in contrast to the figurehead executive, which is the President

The government is a creature of Parliament and in order to remain in power

it must have the confidence of both houses Since the doctrine of parliamentary supremacy is considered one of the major causes for the weakness of previous French and Italian attempts at parliamentary democracy, the Italian constitution has endeavored to limit the effects of a capricious Parliament In order to overthrow a government, more than the simple defeat of a government measure is necessary The defeat must come on a vote of confidence, demanded by one-tenth of the members of the house and not to be taken until three days after its presentation (Art 94)

This constitutional provision of course does not prevent the government from raising a question of confidence over any bill it considers important If it loses the vote after making an issue of it in this manner, the government may feel morally obliged to resign although it is not required to do so under the constitution

Dictatorship is based primarily on executive power, and the Italian constitution has tried to place many obstacles in the path of an aspiring dictator by diligently delimiting the powers of the government and of the President of the Council of Ministers He is denied the short titles of Prime Minister and of Chief of the Government and has been reduced to the position of *primus inter pares* within his cabinet More important is the limitation placed on the government's decree powers (Art 76) Under Fascism Italy was ruled by decrees, which a puppet parliament dutifully transformed into laws at later dates Such decree laws (*decreti legge*) are no longer valid unless there has been specific and limited delegation of legislative power by Parliament to the government In cases of emergency the government may issue such decree laws at its own risk, but on the same day it must present the decree to Parliament for conversion into an ordinary law or, if Parliament is not in session, must call a special session immediately, which will meet in five days

The President of the Council of Ministers is unlimited in the choice of his cabinet Most of its members, however, are members of Parliament De Gasperi's first cabinet under the new constitution consisted of fourteen deputies and six senators Sixteen of these men were heads of departments of the administration as well, and four of them were "without portfolio" Of the latter, two were primarily concerned with the operation of the Marshall Plan

## *THE JUDICIAL SYSTEM*

The Italian judicial system resembles that of France In both cases the magistracy is composed chiefly of career civil servants, there is a tendency toward a plural bench, the laws are codified, and little attention is paid to precedent The systems are similar also in their strict adherence to the maxim of the separation of powers, and generally in matters of procedure Both countries employ the concept of the sitting and standing magistracies, that is, of the interchangeability between the judge and the prosecuting attorney Finally, both countries have set up in their postwar constitutions a

new institution which is intended further to guarantee the independence of the magistracy In spite of these generic similarities, however, there are many differences between the two systems

**a The Courts**

1 *Ordinary Courts* The lowest rung in the Italian judicial hierarchy is the *conciliatore*, the Italian substitute for the French *juge de paix* The *conciliatore*, however, has only civil jurisdiction and is really only a mediator and arbitrator The *conciliatore* is not a state employee He receives no salary other than fees He is chosen from among the educated men in his community, who are respected for their honesty and impartiality The decisions he hands down can be appealed to the next highest judicial authority, which is the pretor

The pretor is the lowest of the paid judges He has jurisdiction over minor civil and criminal matters within his district (*mandamento giudiziario*) There are about a thousand such districts, but there are many more than a thousand pretors as the more populous districts keep more than a single pretor busy The pretor is the only Italian judge, other than the *conciliatore*, who sits alone Although he is at the bottom of the judicial hierarchy he is not a man without power His jurisdiction in criminal cases extends to those crimes for which the penalty is three years' imprisonment

The court above the pretor is the tribunal, of which there are about one hundred in Italy These courts have a plural bench, like the French *tribunaux* Three judges always hear a case The tribunals have more than 300 judges, however, because in the populous quarters there is more than one section of the tribunal Roughly, there is a tribunal in every provincial capital, with extra ones in a few of the larger cities that are not provincial capitals These courts have original jurisdiction over civil cases involving too much money for the pretors' competence and criminal cases involving crimes for which the punishment consists of fines and imprisonments beyond the competence of the pretors to inflict They also hear on appeal the cases previously tried by the pretors

Appeals from the tribunals are taken to the courts of appeals, of which there is about one for every region Cases appearing before a court of appeals are judged by five magistrates In civil cases this court has no original jurisdiction In criminal jurisdiction, however, besides appellate jurisdiction over cases heard in the first instance before the tribunals, the court transforms itself into a court of assizes to hear cases involving the most serious crimes When functioning as a court of assizes, the bench is composed of two appellate judges and five lay assessors, chosen from certain categories of citizens such as psychiatrists, social workers, etc These lay assessors are an innovation of the Fascist Alfredo Rocco, who wrote the present criminal code and who wished to abolish the jury system Another special section of the court of

appeals has been set up to try criminal cases concerning children This children's court (*Tribunale pei minorenni*) is composed of two appellate judges and one lay expert in social work, who is either a medical man or a psychiatrist These courts also have a minor civil jurisdiction over certain cases involving the care of children

The highest court of the hierarchy is the Court of Cassation Like its French equivalent, this court judges no case on its merits, it only quashes the decisions of the lower courts on questions of law Seven judges hear each case that reaches this court

2 *Special Courts* Although the new constitution states explicitly that there shall be no special courts other than special sections of the regular courts to which specific types of cases may be taken (Art 102), there are in fact several types of special court still operative in Italy Besides the administrative courts, which will be discussed later, there are the military courts and the public water courts

The military courts (*tribunali militari*) have jurisdiction over criminal cases involving military personnel and military questions In peacetime there is an appeal against the decisions of these courts to the Court of Cassation The military courts form a hierarchy in themselves as there is a superior military court in Rome which hears appeals

The public water courts (*tribunali delle acque pubbliche*) have jurisdiction over conflicts concerning the use of public waters There is a superior tribunal for public waters in Rome, which has appellate jurisdiction

There are several other specialized courts dealing with minor civil matters For instance, the port authorities have jurisdiction over minor cases dealing with port damages

The Constitutional Court, as set up under the new constitution, is quite outside the regular judicial system It is composed of fifteen judges, one-third of whom are to be designated by the President of the republic, another third by Parliament, meeting in joint session, and the rest by the magistrates themselves The appointees must either be top-ranking judges, retired judges, full professors of law (*professori ordinati*), or lawyers with twenty years of practice The term of office is twelve years and the judges are not immediately reeligible

This court will have original jurisdiction over all questions dealing with the constitutionality of laws passed by the national Parliament as well as those issuing from the regional parliaments The court also judges all cases of impeachment, but when it acts in this capacity it is assisted by sixteen additional members elected by Parliament in joint session at the beginning of each legislature These sixteen additional members must have all the requisites required of senators, the most important of which is the age requirement of forty years There is no appeal from the decisions of this court whether they be on a constitutional question or an impeachment (Arts 134-135)

3 *Administrative Courts* Like the French, the Italians have a system of administrative justice which is independent of the ordinary courts The jurisdiction of these Italian administrative courts, however, is different from that of the corresponding French courts As in France the top administrative institution in Italy is the Council of State (*Consiglio di stato*), and, also like its French counterpart, this body has judicial functions These functions are performed by three of the Council's six sections Italian administrative jurisprudence, however, is more closely allied to that of Belgium and the Netherlands than to that of France In these countries the method of determining whether a case should be heard before an administrative or an ordinary tribunal depends less on the nature of the act, which is the controlling factor in France, than on the relationship of the plaintiff to the act and the object which he seeks to attain from the court The citizen must go to the ordinary courts for the protection of his rights It is only in the ordinary courts that he may receive damages The administrative courts in Italy protect interests (*interessi legittimi*), which are defined as "individual interests strictly connected with public interests and protected only through the protection of the latter" [1] A citizen has, for example, a right to damages against tortious action, but he has only a legitimate interest with respect to the validity of an ordinance

The judicial section of the *Consiglio di stato* has no competence with respect to the so-called "political activities" of the government but only its administrative acts It hears cases only if all other remedies have been exhausted, such as an appeal to the immediately higher administrative authority to the one whose action is considered invalid In accord with the type of question submitted to it, the *Consiglio di stato* may have only the power to determine the legitimacy of the act or it may also have the power to review its advisability In either case, should the *Consiglio di stato* disapprove the act, it has only the power to invalidate it If damages are to be claimed, a separate suit must be initiated before the ordinary courts

The Italians have still another administrative court, the *Corte dei conti*, which performs some of the functions performed by the nonjudicial sections of the French *Conseil d'état* It also serves a function analogous to the Controller General in the United States The *Corte dei conti* is a body of about a hundred men, whose major functions can be divided roughly into three categories First, all government decrees must be submitted to this body for approval before they take legal effect, secondly, all important government contracts and all promotions must be reviewed by this agency before becoming effective, and thirdly, it must approve all disbursements made by the government The *Corte dei conti* also acts as a court of claims in pension cases

[1] Guido Zanobini, *Corso di diritto amministrativo*, 4th ed (Milan, 1945), vol 1, p 174

Jurisdictional disputes between the administrative and the ordinary courts are heard by the Court of Cassation

### b. The Magistrates

Except for the *conciliatori* and a few lay experts, the Italian magistrates are career civil servants Those functioning within the ordinary court system are under the control and supervision of the High Council of the Magistracy *(Consiglio superiore della magistratura)*, a new institution created by the new constitution

This council is composed of both elective and ex-officio members The ex-officio members are three in number the President of the republic, who is also president of the council, the Chief Justice of the Court of Cassation, and the Chief Prosecuting Attorney Two-thirds of the elected members are chosen by the magistrates themselves and the other third by Parliament in joint session, from among full law professors and lawyers with fifteen years' practice

The High Council is empowered by the constitution with all authority over recruitment, promotions, and disciplinary procedures with respect to the regular magistrates, although it permits future legislation to establish other systems, including popular elections for *conciliatori* and pretors The council is further empowered to appoint top lawyers and law professors to the Court of Cassation if it so chooses (Arts 105-107)

Before Fascism the Italian magistracy had a reputation for honesty In the ensuing period, and particularly in the post-Fascist years, this reputation has waned The low salaries and the consequent increased temptation to accept bribes seems somewhat to have lowered the moral standards surrounding the magistracy On the whole, however, the Italian magistracy has maintained a high level of intellectual capacity (Italy has had a long and worthy juridical tradition and not even in the eyes of her most prejudiced enemies has she lacked lawyers) Whatever moral lapses may recently have been perpetrated may be explained, but not condoned, by the social and economic disequilibrium of the postwar period

### c The Law

Italian law, like French law, is codified This means that all the laws pertinent to the basic branches of the law are found in a unified code and its amendments In Italy there are four great codes the civil code, the criminal code, the code of civil procedure, and the code of criminal procedure The difference between the European and the Anglo-American legal systems, however, does not lie in the fact that the one has codes and the other does not Every one of the forty-eight American states, for instance, has a criminal code, and every so many years the federal government recompiles, from the *United States Statutes at Large*, a huge volume arranged by subject matter,

called the United States Code The major difference between the two systems is that the Anglo-American countries do not have civil code and that for the sources and principles of that law the Anglo-American judges must refer to the common law, which is nothing other than the decisions and opinions that earlier judges have given with respect to similar situations

The Italian codes which Mussolini inherited were outmoded affairs Some of them dated back to the period of national unification Perhaps because he was mindful of the fact that a good share of Napoleon's lasting glory is a reflection of the laws he gave to France, Mussolini determined to revise the Italian codes The first ones to undergo revision were the criminal code and the code of criminal procedure The work was undertaken in the twenties when Alfredo Rocco was Minister of Justice and had direction of this great task Rocco had one of Italy's ablest legal minds, but unfortunately he was also an ultranationalist and a religious fanatic, lacking both humor and humanity By international standards the codes he turned out were neither admirable nor modern and the new Italy will certainly have to revise them again if she wishes to practice the democracy she has professed in her new constitution

1 *The Criminal Codes* The new criminal code went into effect July 1, 1931, and replaced the previous code of 1889 It is technically a sufficient improvement over the earlier code so that notwithstanding its many weaknesses no attempt has been made to discard it in favor of its pre-Fascist predecessor The new code created many new crimes and increased punishments It is a mean code, which stands very much on its dignity and exacts its pound of flesh

Following the teachings of Italy's great penologist, Cesare Beccaria, the pre-Fascist code included no death penalty The Rocco code reintroduced it, not only for the most serious crimes, which were crimes against the state, but also for any two lesser crimes, the punishment for both of which was normally life imprisonment This was done in order to make sure that no crime should go unpunished[1] A few other observations, chosen almost at random, will clearly show the spirit which generally pervades this document The state can appropriate all the property of a condemned man in order to pay his expenses in prison The previous code protected only the safety of the state, the Rocco code made crimes of all acts which damaged "fundamental political interests with respect to which the state intends to affirm its personality" (Book II, Title I) An example of such an action would be any of the books written by the anti-Fascist exiles in which they told the truth about the government of their country Another new crime is that of not reporting an act against the personality of the state (Art 364) Still another new crime is vilifying the Roman Catholic religion It is also a crime to vilify other tolerated religions, but the penalties are much smaller Individual liberty, which otherwise is given little consideration in this new code, is protected,

by one new provision making it a crime to influence another person through hypnosis (Art 613)

The new code of criminal procedure also went into effect July 1, 1931, replacing the previous code of 1913 Most of its innovations that were not merely technical improvements to expedite the procedure favored the prosecution to the detriment of the accused It abolished the presumption of innocence of the accused, which has been a principle of law in most civilized countries for some time, substituting in its place an attitude of neutrality toward the accused Such a principle must be based on the assumption that it is no worse to punish an innocent person than it is to free a guilty one This bloodthirsty attitude permeates the whole of Rocco's work and can be explained only by his dangerous assumption that the state can do no wrong Other significant articles in the new code are those which permit the detention of suspects at the pleasure of the prosecuting attorney and deny the defense attorney equal access to the preliminary hearings on equality with the prosecution [2]

2 *The Civil Codes* The civil codes were reformed later and under more favorable auspices By that time the fanatic Rocco was dead and Count Dino Grandi, one of Fascism's cleverest politicians, was Minister of Justice To carry out his work Grandi called on the best legal brains of Italy, including those of noted anti-Fascists like Calamandrei and Comandini Grandi was not interested in the wild theories of the Germans or of nationalists like Rocco The Italian civil codes were creaking and they needed revision Grandi apparently wanted something that would work a little better, and that is more or less what he got

The civil codes dated back to the nineteenth century Both the civil code proper and the code of civil procedure went into effect in 1865, and the commercial code dated from 1882 The revisions of these codes, which were planned early in the Fascist regime, were not completely in effect until the Birthday of Rome April 21, 1942, although parts of the new civil code were operative July 1, 1939 With the reform, the practice of having a separate commercial code was discarded and commercial law was included in the new civil code

Although there was a wild pro-Nazi faction in Italy which wanted to do away completely with the Roman tradition of Italian law and create a new Fascist law after the Teuton model, this group did not get the upper hand in the revision of the civil codes Instead the job was done by competent jurists who sought to preserve the basis of the Roman law system and to modernize a system which had need of technical improvements The present system is far from perfect in practice, and lawsuits still drag on interminably The weaknesses, however, cannot all be attributed to the codes, which are generally considered an improvement over their predecessors, in good part

[2] *La legislazione fascista 1929-1934 (VII-XII)* (Rome, 1934), vol 1, pp 226-253

the trouble lies in the fact that there are not enough judges to handle effectively the volume of cases that come before them

One of the main breaks with tradition in the civil codes is the increased "orality" of the civil procedure The old system, like that of France and French Switzerland, consisted primarily in an indefinite series of written documents that passed between the counsels for the parties and the judges The new Italian system tries to bring these persons together to talk things over and thus expedite matters Even under the new procedure it is the opinion of competent practicing attorneys in Italy that an average civil case is not likely to be settled in less than two years

Chapter 35

# *Political Parties and Elections*

## *POLITICAL PARTIES*

ITALY is nominally operating under a multi-party system, similar to those of the other western European democracies, but actually the political scene is dominated by two super-parties the Catholics and the Communists Thus in a way a two-party system has been superimposed on the traditional multi-party system

Italian political parties, perhaps even to a greater extent than French and Swiss ones, tend to have set principles Party membership is not open to everyone, as it is in America, and consequently means agreement on basic principles with the other members of the same group This sense of unity of thought and aspirations among party members is part of the reason that Italians find it difficult to remain in a party whenever their point of view is in the minority, and in fact several of Italy's promising postwar parties have faded or are fading rapidly out of the picture because after each annual convention many leaders of the minority have resigned

The rank and file of Italian politicians in the postwar period have shown no turn of heart and have become no broader minded on political questions than their predecessors in the pre-Fascist period, and are engaged in factional politics as commonly today as heretofore But if the Italian politician has not changed his tactics, except in a few notable instances which will be examined in the next paragraphs, the Italian voter has shown an increasing lack of patience with these tactics and has expressed his indignation by his refusal to interest himself in factional squabbles and to cast his votes on the major issue of the day—Catholicism versus communism

It is only natural that with the voter in this frame of mind, the Catholic and Communist parties should gain at the expense of the other parties, but this trend has been further accentuated by the able leadership of the chiefs of these parties, Alcide de Gasperi and Palmiro Togliatti, for it is the nature of the unorganized voter to feel no strong political ties with any party The genius of the tactics of both De Gasperi and Togliatti has been to play on the negative as well as the positive attitudes of these voters, and consequently many a Catholic vote in Italy today is cast by persons who have neutral or

even hostile attitudes toward Catholic influence in politics but who are strongly anti-Communist, and many Communist votes come from persons who would hate to see Russia and the Communists dominate Italy but who are even more passionately opposed to the interference of the Vatican Thus though there are pro-Catholic and pro-Communist groups in Italy, (the existence of the Catholic and Communist parties are proof of this), these groups are greatly outnumbered by the anti-Catholic and anti-Communist forces, which constitute the basic cleavage in the Italian electorate

### The Christian Democracy

Italy's largest and most successful political party is the Christian Democracy (*Democrazia cristiana*) Like other Italian parties it has a central ideal on which all party members are in agreement, but this ideal is a religious rather than a political one, and consequently on all questions not directly concerning the faith there is ample room for disunity within the group

The Catholic Church survived the war and Fascism in Italy with little loss in prestige and popularity In spite of its continued cooperation with Fascism in Italy (and still today in Spain and Portugal) it has borne the brunt of scarcely any anti-Fascist attacks This is all the more surprising when it is remembered that the King and the entire royal family were made to pay for their error in judgment with their throne This Italian tolerance toward the church is explained in part by the heroism and humanity of countless humble priests during the difficult period of the partisan warfare and in part by the fact that the Roman Church was one of the few Italian institutions to emerge from the war with undiminished international prestige

The Christian Democracy was built on the foundations of Don Luigi Sturzo's *Partito popolare* of the pre-Fascist period It is considered a center party although many of its members are reactionaries and several are to the left The success of this party is largely due to the extremely able man who is its leader Alcide De Gasperi, a master politician, was before the first World War a member of the old Austro-Hungarian Parliament He is in striking contrast to the strutting and boastful Mussolini De Gasperi is a quiet, gaunt, austere man, almost totally devoid of color, a non-Fascist, who during the period of Mussolini's power retired to the Vatican library, and the aura of that august mausoleum of books still seems to hang over him As the months passed, however, the Italians seemed to gain confidence in this shrewd and devout optimist, he reminded them somewhat of Giovanni Giolitti, the master politician who had ruled the country unspectacularly and on the whole effectively for most of the twentieth century prior to the advent of Mussolini

Alcide De Gasperi would be the last to claim that he is a man of high technical competence who has solutions to all of Italy's grave problems at his finger tips As a parliamentary leader, however, he knows few equals and no superiors, and it is primarily to this field that he directs his personal talents

It is his job to keep the parliamentary majority in order and to see that the various factions within his own party continue to cooperate effectively

De Gasperi displayed his political genius in his handling of the national elections of April, 1948 Here he performed the miracle of obtaining an absolute majority of the votes for his party, in an election which operated on a system of proportional representation and in which dozens of parties were competing This was the act of a master politician and De Gasperi followed it with an act of a great statesman Instead of forming a new government solely on Christian Democrat support, as he was urged to do by some of his followers eager to apply the maxim that to the victors belong the spoils, De Gasperi continued the coalition government which he had headed prior to the election and thus not only assured himself of a much larger and more secure majority in Parliament but also greatly lessened the criticism which would have been leveled at a purely clerical government

The Christian Democracy is a loose-knit organization, professing a moderately liberal program Its various leaders, however, express this program with varying degrees of fervor In the south the party tends to represent reaction and had some members who were openly monarchist in sentiment In the north its leaders include conservatives like Count Stefano Iacini as well as various left-wing factions, led by the Lombards Malvestiti and Luigi Morelli, the Piedmontese labor leaders Rapelli, Pastore, and Paolo Bonomi, the *Emiliano* economist Dossetti, and others The most important man on the left is Giovanni Gronchi, the present president of the Chamber of Deputies, an ambitious and capable Tuscan who acts as if he hopes some day to step into De Gasperi's shoes

The strength of the Christian Democracy lies in the south and in the Veneto The party is weakest in central Italy in Tuscany and in the former Papal States, where anticlericalism is traditionally strong

The parties which had joined the De Gasperi government before the elections were three the Liberals, the Republicans, and the right-wing Socialists These three parties along with the Christian Democracy represent all the major forces in Italy not aligned with Moscow or reaction

The necessity of having a strong central party in Italy is all the more obvious when one looks at the political cleavage between north and south The ills of the republican government of Salò (whose advocates are called *repubblichini*) were suffered only by northern Italy, and the partisan fighting took place almost exclusively in the north The south, on the other hand, which had been liberated in a relatively painless fashion by the Allies, saw neither the Germans nor the Fascists at their worst This diversity of experience has led to an even wider divergence in political views between the north and the south than existed before The cleavage has been clearly apparent in both the June, 1946, election for the Constitutional Assembly and the plebiscite on the monarchy, as well as in the April, 1948, election for Italy's

first republican Parliament In 1946 the south was solidly behind the monarchy and the north was strongly republican In neither election did any right of center party show any strength in the north, and in the south the left was at its weakest As long as this condition lasts, the center parties are the only ones that can govern because they are the only ones that can possibly represent the nation as a whole

### Other Government Parties

The Liberal party (*Partito liberale italiano*) is the residue of the great political force which triumphed in the *Risorgimento* and brought about Italian unification Today it has gone the way of other Liberal parties, losing heavily in votes as it betrays its traditional ideals The Italian Liberal party has been particularly unfortunate in the postwar period because of the impatience of many of its leaders with the conservative tendencies of the majority This has led successive waves of the party's most able men to leave the party rather than form a liberal minority within it and bide their time until they are in a position to control party policy It is probable that had these men been less impatient with the errors of the conservative group and more faithful to the party they would now be in control of a party with a decidedly different complexion from its present one Today the party is little else than a small group of conservatives surrounding a handful of great old men who alone represent the traditions of the party Outstanding among these men is Italy's first President, Luigi Einaudi, one of the world's most distinguished economists, who is credited in many circles with saving the lira during his term of office as Minister of Economy in 1947-1948 Other prominent Liberals include Italy's most famous living philosopher, Benedetto Croce, a senator, and Count Niccolò Carandini, first post-Fascist ambassador to the Court of St James

The meager strength left to the Liberal party is found either in the south, where the party is reactionary, or in Piedmont, where it has remained more faithful to the ideals of Count Cavour In Piedmont it had a moment of real triumph when its local leader, Franco Antonicelli, was head of the resistance movement there, but Antonicelli, like many other of the younger northern leaders, became impatient with the conservative southern wing and left the party Among these men can be noted the Italian ambassador to Russia, Manlio Brosio, the Italian ambassador to Yugoslavia, Errico Martini, and Antonio Calvi

These three men and many more left the Liberal party to join the Republican party (*Partito repubblicano italiano*), which is composed of the followers of Giuseppe Mazzini, the philosopher and idealist who along with Giuseppe Garibaldi succeeded in freeing Rome from papal control for a brief period in 1848 Although this party is one of the oldest political parties in Italy it is

also one of the least experienced, since its extreme republicanism precluded it from holding office until after the plebiscite of June 2, 1946

For almost a hundred years the Republican party was more like a church or a club than like a political party Its catechism was based on republicanism and anticlericalism and appealed primarily to the lower bourgeoisie, attracting both Jews and Masons Republicans were often fanatical but rarely violent They refer to the collected works of Mazzini as the Bible and tend to seek in the writings of this gentle and great man the answer to present-day problems beyond his horizon

During this long period of forced idleness from political activity, the party took on a tone which it still maintains It is filled with uncompromising idealists of complete integrity, many of whom are loath to sacrifice the most minor point of principle even for a great immediate advantage This selection process has been going on for so long in the party that the party badge, a green ivy leaf, is more an indication of moral character than of political sagacity

The Republican party is rather badly split between the orthodox Republicans who remain faithful to Mazzini's every word and those who wish to modernize the party The leader of the first group is Senator Giovanni Conti, and its platform stresses decentralization, complete political liberties, and as little government interference as possible in economics and elsewhere Those who would attempt to modernize the party can be divided roughly into two factions, one of which is headed by the brilliant Sicilian economist Ugo La Malfa, who wishes to transform it into a strong anticlerical center party along the lines of Roosevelt's New Deal La Malfa is a former member of the Action party who joined the Republicans in 1946, along with most of the right wing of the Action party, including the supreme commander of the Italian partisan forces, Ferruccio Parri The other faction, headed by the party's secretary, the Tuscan Randolfo Pacciardi, De Gasperi's Minister of National Defense and former top commander of all the Italian forces fighting against Franco in Spain, appears to seek closer ties with the right-wing Socialists The stumbling block here is the diametrically opposed views between the old-line Republicans and all brands of Socialists over what the state should be The Socialists favor increasing state controls, old-line Republicans still view the state essentially as an evil to be tolerated only to the extent that it prevents still greater evils and with functions and power drastically curtailed

The Italian Republican party has considerable strength in certain localities and is virtually nonexistent in large sections of the country It is strongest in the Romagna, the Marche, and in the towns around Rome—in other words, in the former Papal States—but it also has islands of strength throughout the south

Italian Socialists, like the Socialists of many other countries, are confused Whereas in most other countries this state has led only to internecine strife

and the general weakening of the Socialist cause, in Italy it culminated in a party scission The right wing of the Italian Socialist party broke off and formed a separate party in January, 1947 The scissionists were discontented not only with the subservience to Moscow and communism displayed by the left wing but also with the moral qualities of the men involved These scissionists were themselves divided into two major groups The more important one, the *Amici della critica sociale*, was composed of the followers of the pro-Fascist Socialist leaders Filippo Turati and Claudio Treves, brilliant, scholarly, and not very practical men on socialism's extreme right In the postwar period this group was led by the brilliant, scholarly, and not very practical Giuseppe Saragat, a Piedmontese The other faction, known as the *Iniziativa socialista*, was composed of the young radicals who demanded immediate and drastic socialization but at the same time were strongly anti-Communist The leading figure in this group was the Roman deputy Mario Zagari

The new party, known as the PSLI (*Partito socialista dei lavoratori italiani*), entered the government on May 31, 1947, when the first postwar Italian government without Communist representation was formed Members of this party sometimes find the Catholics uncomfortable bedfellows, but since they prefer the Catholics to the Communists they have been willing to remain and by their presence to restrain the more reactionary elements within the Christian Democracy

When these groups of dissident Socialists split off from the party, they hoped to take with them not only the majority of the party's leaders but also much of the rank and file Many of the best men of the party, however, did not bolt, but stayed in the party, hoping in the near future to be able to counteract the influence of the left wing Before the 1948 elections this moderate group, which is also basically anti-Communist, had gained considerable power but not enough to prevent the party's presenting a single ticket and a united front with the Communists for the election The alliance was more than some of the moderates could stomach, and so another scission took place The leaders of this defalcation were the pro-American economist Ivan Matteo Lombardo from Milan and the Abruzzese novelist Ignazio Silone They joined with other left-wing anti-Communists such as Piero Calamandrei to form a group called *Unità socialista*, which although unwilling to join the PSLI nevertheless ran on the same combined ticket with them in the election

Socialist strength is centered in the industrial triangle of Turin, Genoa, and Milan, which latter is the stronghold of the PSLI In the Veneto, as well as in the center and south of Italy all factions of Socialists are weaker

The first ministry after the elections of 1948 assumed office on May 23, 1948 It was De Gasperi's fifth consecutive ministry and the eighth government in Italy's postwar period The government was basically clerical in

sentiment, but the clerical party showed moderation and tolerance in taking into the coalition anticlerical parties like the Liberals, the Republicans, and the P S L I Some credit is also due, however, to the leaders of these parties, particularly to Pacciardi and Saragat, who put the good of the country ahead of party politics and were willing to sacrifice the easy role of critic for the difficult one of junior partner, responsible for decisions he had little say in making

This government persisted for twenty months, into January, 1950, when it resigned and De Gasperi set about forming his sixth consecutive ministry In the fall of 1949 the P S L I ministers had resigned from the government pending a decision of the party councils as to the advisability of renewed participation in the government Early in January, 1950, the party decided almost unanimously for continued participation Immediately thereafter De Gasperi made speeches showing a swing to the left in his policies and making concrete proposals for social reforms, thus assuring P S L I support for the new government he was about to form The announcement of this program also assured De Gasperi of the continued support of the Republicans

This turn of affairs, however, was displeasing to the Liberals, who in opposing land reform and regionalism and in favoring proportional representation for local elections found themselves at odds with major provisions in the De Gasperi program This remnant of a once great party therefore declined to participate in the new coalition government and joined the opposition This party has been dwindling in power and prestige during the postwar era at an increasing speed, and at the same time it has been veering ever farther to the right Its decision not to participate in the sixth De Gasperi government seems to indicate that it has lost all claim to the name Liberal and has identified itself instead with reaction

## The Opposition of the Left

The other parties in Parliament form the opposition This opposition is centered in the Communists, the P C I (*Partito comunista italiano*) The Italian Communist party is in some respects in a favored position in comparison with the Communist parties of western Europe In the first place, in Palmiro Togliatti it has a leader who seems to be in the particularly good graces of the Russians In the second place, Italian Socialists are so badly split and the major group of them are so subservient to the Communists that the latter have remarkably little competition in their fight for the control of the Italian proletariat

Italian Communists have the further advantage of being among the few Communist groups in Europe or America who have been able to maintain a relatively consistent attitude during the vicissitudes of the war and the vagaries of Russian foreign policy In 1939 and 1940, when French Com-

munists were acting in a traitorous manner sabotaging the war effort and in 1941 when the American Communists were making fools of themselves explaining how an immoral capitalist war was magically transformed into a holy crusade for the freedom of the masses by the simple fact of Hitler's attacking Russia, the Italian Communists were in jail, from which fortunately for them they were unable to make public utterances Italian Communists therefore remained consistently anti-Fascist and were not called upon to disrupt the single-mindedness of their convictions

Not only has the anti-Fascism of the Italian Communists been remarkably consistent, but perhaps a point still more greatly in their favor is that they have been virtually the only active anti-Fascist movement which maintained constant communication with the people We should not forget the fact that Mussolini's dictatorship was, until it became perverted by the Germans, relatively mild, and did not seriously molest the non-Fascist until he became actively engaged against the government The vast majority of the present-day Catholic and Socialist leaders lived in Italy during most of the Fascist period Many of them prospered financially The present Communist leaders, on the other hand, were in jail, in exile, or in hiding

Communist strength in Italy is divided between the career Communist and the communist voter The career Communist is a fanatic whose whole life is devoted to the party Being a career Communist in Italy is not unlike being a priest Such a man dedicates his life to the realization of an ideal and submits to complete obedience so that his entire efforts can be channelized and coordinated with those of the other comrades In return for this dedication and obedience the career Communist gets complete security The party will satisfy his material needs just as his Marxist faith is supposed to satisfy his spiritual needs The man who accepts communism in this way may well be losing his birthright as a freeman, but he is losing nothing in efficiency He is on the job twenty-four hours a day When he is not actually working on his party job, he is going to party meetings, reading party newspapers, or dreaming of the better world he believes he is in the process of creating The career Communist is so apart from the rest of the world that even his love life is almost invariably shared with a comrade, for Communists are virtually ostracized from the rest of society The subservience to Russia of these career men is not dissimilar to that of Roman Catholics to Rome, and in not a few cases it is heightened by a deep personal sentiment of gratitude Several of the most fanatical of the pro-Russian Communists in Italy are led to that view by the fact that when they and their active Communist wives were jailed by the Fascists the Russian government smuggled their children to Russia and gave them a good education In at least one instance, that of Luigi Longo and Teresa Noce, the children have preferred to remain in Russia

The communist voter is quite a different type from the career Communist

Generally he knows and cares little for Russia or communism He is likely to be a worker and to be aware of the class struggle To him the church and the capitalist are natural enemies and a vote for the Communist ticket is a vote for the workingman The communist vote may be the product of greed, of just grievances, or merely of unfounded prejudice If economic conditions continue to improve and if the Communist party continues to attempt to obstruct recovery by strikes and agitations, the communist vote is likely to fall away

Besides Togliatti, Communist leaders include Luigi Longo, second in command of Italian partisan forces and generally considered the top military figure in the party, Pietro Secchia, the administrative secretary of the party, whose job is not dissimilar to that held by Stalin under Lenin, and Ruggiero Grieco, thought to be the head of Communist underground activities The most popular figure in the party, however, next to Togliatti, is the labor leader Giuseppe Di Vittorio, who, as national secretary of the C G I L, is the top man in the Italian labor field Di Vittorio started as a Pugliese farm hand and has had few years of formal education, but he is a man of exceptional ability

Although the top handful of Communists in Italy are men of simple background, the party is not without its social and intellectual elite Concetto Marchesi is both a Communist deputy and one of the most famous Latin scholars in Italy Senator Antonio Banfi is Italy's foremost phenomenologist, and Senator Celeste Carlo Negarville, reputed to be a count, would add luster and charm to any social gathering

Communist strength, like Republican strength, lies in central Italy, where anticlericalism is strongest The Communists also have many followers in the industrial northwest, but there they are up against considerably stiffer competition from the various Socialist groups They are weakest in the south and in the Veneto

At present the Communists' only allies are the left-wing or Fusionist Socialists These are the Socialists who did not break from the party with Saragat, or later with Lombardo or Romita They are an unhappy group with a great tradition and no place to go The party is still hopelessly divided into factions Its left wing, headed by Pietro Nenni, Lelio Basso, and Oreste Lizzadri, does not approve of even the slightest divergence between its program and that of the Communists In the center men like Riccardo Lombardi, the former party secretary, and Fernando Santi, the top Socialist in the labor movement, are trying to hold the party together by compromise Such men are torn between their distrust for Moscow and their distrust for the Vatican, and it is difficult for them to make up their minds The choice they see is only between the devil and the deep blue sea

After the 1948 elections, in which the left wing Socialist forces suffered

a serious setback, still another split occurred This time the leader was the Piedmontese Giuseppe Romita Romita succeeded in taking with him most of the experienced Socialist labor leaders who had thus far remained in the CGIL The Romita group and the PSLI, however, have had difficulty getting together In part this difficulty has been over a question of policy, as the Romita group is nominally opposed to serving in the De Gasperi government There are those who feel, however, that the real difficulty is less over the policy matter of whether or not to join the government than over the question of whether Romita and his friends would get any of the ministerial posts

### The Opposition of the Right

The rest of the opposition to the present government is found among the reactionary right All the parties of this group are at present of insignificant size Their poor showing in the election of April, 1948, was probably the biggest upset of that event The unexpectedly large Catholic vote was gained in good part at the expense of these right-wing parties, which particularly in the north were practically wiped out

The most respectable of the parties on the extreme right is probably the Monarchist party *(Partito monarchico italiano)* It is practically nonexistent in the north, but has a modest and faithful following in the south This party elected twelve deputies and four senators

The most smashing defeat of the election was suffered by the *Uomo qualunque*, the Common Man party of the playwright and journalist Guglielmo Giannini Giannini, who is half Neapolitan and half English, and who frequently appears simultaneously with a monocle and without a necktie, had an unexpected success in the 1946 elections when at the last moment he founded a party to be against all parties and to make fun of democracy In that election he managed to return over thirty out of 556 deputies In the 1948 elections his party ran on a combined ticket with the Liberals and succeeded in returning only a couple of deputies Giannini himself was defeated

Giannini was an interesting phenomenon He is a colorful quipster and in 1946 to many Italians he appeared as a pleasant diversion among the singularly colorless leaders presented by most of the serious parties In 1946 he received the protest votes of many persons who did not like the way things were going and were not convinced of the merits of democracy These votes came almost exclusively from the south It speaks well for Italian democracy that this humorous episode in Italian politics was allowed to die a quick death two years later Giannini had had his little joke and the Italian people had had their little diversion By 1948 they were ready for serious business, and where there was serious business to be done there was no place for Giannini

An even more drastic if less surprising defeat was suffered by the ultra-

nationalist group which broke off from the *Uomo qualunque* movement and was led by Emilio Patrissi The group, whose official name was *Movimento nazionalista per la democratizzazione sociale,* in spite of considerable financial backing failed to elect a single deputy

The only one of these reactionary groups besides the Monarchists which had some success, and that only in the cities of Rome and Naples and in Sicily, was the neo-Fascist party, the M S I *(Movimento sociale italiano)* This group is composed primarily of young men, who insist that instead of being reactionaries they are actually far left of the Communists The M S I, nonexistent in 1946, succeeded in electing six deputies and one senator in 1948

In addition to the parties described above, Italy is still rife with minor parties All in all, thirty different tickets appeared on the election lists of one or more of the electoral districts Only three of these smaller parties, however, succeeded in electing deputies in the April, 1948, elections The Italian Farmers' party *(Partito dei contadini d'Italia),* with local strength in rural Piedmont, elected its leader Alessandro Scotti The South Tirol People's party *(Partito popolare sudtirolese),* a German Catholic party which is strong in the province of Bolzano, elected three deputies In Sardinia the local Sardinian Action party *(Partito d'azione sardo),* whose leader is Senator Emilio Lussu, managed to elect a single deputy as well as one senator

Of the other parties, none of which succeeded in electing a candidate, only one, the *Partito communista internazionale* (Trotskyist), is known outside Italy The least successful of all, which went under the impressive name of the *Unione nazionale disoccupati profughi senza tetto ed apartitici,* or in English the National Union of Apolitical Homeless Unemployed Refugees, polled a national total of 272 votes

Besides the thirty groups which ran in the 1948 election, there is at least one other political group in Italy that spurns participation in elections This is the F A I *(Federazione anarchista italiana)* It has been many many years since an Italian anarchist threw a bomb or in any way disturbed the peace In Italy anarchists are for the most part kindly and bewildered old men who dislike authority, be it temporal or spiritual, and who distrust those in authority There is a little anarchy in every Italian just as there is in most Americans The Italian anarchists just feel a little more strongly about it and are a little more impractical than most of their fellow citizens The anarchist movement, such as it is, is centered in the provinces of Massa Carrara and Bologna It is virtually nonexistent elsewhere

Certainly little or nothing can be expected from these crank parties of the right or left that either are based on an extreme opportunism or espouse an aberrant philosophy distinctly distasteful to the majority of the electorate Rather, indications point in the other direction, toward the creation of a two-party system of anti-Catholics *v* anti-Communists At first glance this calls to mind the British two-party system and would appear a boon for Italy

There is, however, a significant difference The British system functions efficiently because of the essential agreement between the parties The Italian situation is dangerous because there is such basic disagreement between the parties that it is difficult to see how the country can prosper if the government should repeatedly change hands It recalls the traditional struggle between Guelph and Ghibelline, which was at the basis of so much of Italy's political unrest during the late Middle Ages and the Renaissance The Guelph party was the papal party, which espoused the temporal supremacy of Rome The Ghibelline was the anticlerical party, which looked to the foreign (German) Emperor for material salvation The Christian Democrats have inherited the Guelph tradition, whereas the Communists have done little but substitute the dictatorship of the proletariat for the Holy Roman Empire, and look to Russia instead of to Germany

This situation leaves Italian Socialists in a dilemma If Italian democracy is to survive, they must form a Third Force, a buffer between clericals and Communists On the necessity of this they are agreed, the disagreement is one of methods Saragat and Lombardo believe that by collaboration with the De Gasperi government, the excesses of clericalism can be contained and thus Italian democracy can best be served Many other Socialists, particularly among the rank and file, want to create a loyal opposition, representing democratic anticlericalism They feel that in this way they could gain many voters who have voted Communist mainly as a protest against the Christian Democracy Saragat and Lombardo, on the other hand, feel that by joining the opposition and thereby weakening the government, they would merely be playing into the hands of the Communists

## *ITALIAN ELECTORAL LAWS*

Part I, Title IV of the Italian constitution, which deals with the political rights and obligations of citizens, is the basic law with respect to elections According to the constitution all Italian citizens who have reached their majority may vote with the exception of those who lack legal capacity, who are condemned criminals, or who are morally unfit as determined by law The present law denies the vote to ex-Fascist hierarchs Men and women reach their majority at the age of twenty-one in Italy, and married men at the age of eighteen, and consequently it is at these ages they can vote

The constitution further stipulates that voting is personal, equal, free, and secret, and is a civic duty According to present legislation "personal" seems to be interpreted so as to require the voter to present himself personally at the polls, and therefore absentee ballots are not provided for The civic duty to vote is sanctioned by no penal legislation, and consequently the duty is primarily of a moral nature This arrangement is the result of a compromise between the Communists and the Catholics The former, who are always sure of the ardor of their followers, were opposed to compulsory voting The

latter, who were eager to get out as big a vote as possible, because they hoped to gain that way, strongly favored it

There are no further constitutional provisions concerning voting Title IV hastens on to the matter of political parties All Italians are assured the constitutional right to form political parties to compete in a democratic way in the determination of the government policy (Art 49)

Article 50 grants to all citizens the right to petition Parliament for legislation or to inform it of the people's needs Article 51 states that all citizens of either sex can hold public office, elective and otherwise, with equal opportunities under the law

The constitutional provisions on elections have been greatly amplified by the electoral laws concerning the elections to the Chamber of Deputies, the Senate, and the municipal councils These regulations have been drawn up in three distinct laws and arrange for different procedures Consequently they will be treated separately in this chapter

## Chamber of Deputies

The Chamber of Deputies is elected by direct universal suffrage with one deputy representing each 80,000 inhabitants Fractions of over one-half entitle the electoral district to an additional deputy Any person entitled to vote who has reached the age of twenty-five may be elected deputy Deputies are to serve for five years (Arts 56 and 60) This is all the constitution has to say about the elections for the Chamber, but the matter is thoroughly regulated by the decree of February 5, 1948, no 26

This decree divides Italy into thirty-one electoral districts With the exception of the eighteenth district, which includes the region of Umbria and the province of Rieti, each district consists either of an entire small region or of several provinces within the same region Each electoral district elects a number of deputies in accordance with its population A system of proportional representation is used for these elections Each party prepares a list of its candidates for each district It is not necessary that the candidate reside in the district and in fact the same candidate may run in as many as three districts If he is elected from more than one, he must opt for one district, and the next person in line in the same party takes the seat he vacates in the other district or districts In preparing the lists each party may name as many deputies as there are seats to be filled This is the maximum number, but a single man may run for a party

Each party selects a symbol as well (in several election districts a large number of voters, perhaps even a majority, cannot read or write) The party symbol and the lists of candidates are then posted on signboards throughout the district before the election day so the voters can consult them On election day, which is always a Sunday, the voter goes to the polling place of his

residence and receives a ballot consisting of a piece of paper with the various party symbols on it and a blank space in the middle

The party symbols often include the name of the party within them This is particularly true with the smaller parties and the ones primarily interested in the literate vote, such as the Socialists and the Republicans The Communists, however, use merely the hammer and sickle, and the Christian Democrats use a shield with a cross and the word *Libertas* written on the cross This has led the foes of the Christian Democracy to suggest that the Catholics want to crucify liberty The P S I uses a hammer, sickle, and a book with the name of the party around the circle The P S L I uses a circle, some arrows, and a picture of Matteotti, as well as the name of the party, and the Republicans rely on their name and their traditional ivy leaf The Liberals use the Italian flag with a sheaf of wheat Since many Liberals are Monarchists and the Monarchist flag had the coat of arms of the house of Savoy in the middle of its white bar whereas the Republican flag's white bar is unsullied, the sheaf of wheat on the Liberal emblem is ingeniously used to cover up the center of the flag so as to make it impossible to see whether or not it is adorned with the monarchist emblem The Monarchist party uses a five-cornered star with a crown in the middle Some of the minor reactionary parties have evolved particularly tasteless symbols The *Uomo qualunque* party uses a complicated and ugly device picturing a man caught in a huge vise, and the *Movimento nazionale per la democrazia sociale* uses a map of South Europe with everything Italy ever stole or claimed under Fascism shown in black From this design, the party became known as *L'Italia nera* (black—therefore Fascist—Italy)

After having marked the symbol for which he is voting, the voter may in addition express a preference for from one to four candidates (maximum of three if the total number of deputies to be elected from the district is less than sixteen) who represent the party for which he has voted This action is purely voluntary on the part of the voter and the ballot is valid whether or not he has availed himself of this additional prerogative As the names of the candidates are not on the ballot, the voter who wishes to cast a preference vote must write in the name or names of his preferences in the space on the center of the ballot which has been set aside for this purpose Preference votes, then, can only be cast by literate voters

When all the voting is completed the party votes are totaled The totals are then added and the sum divided by the number of deputies to be elected plus three The quotient obtained in this manner is called the electoral quotient The party totals *(cifre elettorali)* are next divided by the quotient for the district, and the new quotient obtained from this division becomes the tentative representation granted that party from that district When this process has been completed for each party the quotients thus obtained are added, and if their sum is not greater than the number of seats assigned the district,

the seats are allotted according to the quotients If the sum is greater than the number of seats allowed the district, the process is started over again, a new electoral quotient is found by dividing the total number of votes by the number of seats assigned plus two, instead of plus three as was done the first time If this process also gives too large a total of final quotients, the total number of votes is divided by the number of seats plus one, and if necessary later, by the total number of seats assigned plus zero

After the number of seats to be assigned to each party has been determined, the preference votes for each candidate are counted and the candidates are elected in the order of their descending number of preference votes These lists are kept until the next general election and as the deputies die or resign their places are filled by the next in line in the list of preference votes for their party in their district In this manner by-elections are dispensed with [1]

Besides setting up electoral lists in the various districts, the major parties form national lists When the election officials of the districts have finished the procedures outlined on the preceding pages, they send to Rome a list which specifies the number of seats not assigned and the fractions left over from the total vote of each party as it was divided by the electoral quotient When these figures have been received from each of the districts, they are totaled, and the number of seats still to be assigned is divided into the number of votes not used in the districts to elect deputies The quotient resulting from this operation is the electoral quotient for the national list This quotient is then divided into the various party totals and the number of candidates to be elected on the national list by each party is thus determined If all the available seats are not assigned in this way the remaining seats are distributed to the parties in the order of the size of their remainders In the case of the national list the voter of course can cast no preference vote and the candidates are elected in the order they were selected by their party A candidate elected on the national list is required to accept that seat and if he also was elected from a district the latter seat is assigned to the next candidate in line of preference votes in the district

The system of the national list serves two main purposes It is the Italian equivalent of the safe seats from which the British parties elect their valuable but poor vote-getting members of Parliament In Italy such men are placed high on the national list Its other purpose is to help the little party which is unable to amass enough votes in most of districts to elect a single representative but which by the process of adding up its various residues manages to salvage two or three additional seats In the April, 1948, election twenty-three of

[1] A somewhat different and simpler system is used in the thirty-first district, that of Val d'Aosta, which elects a single deputy Here each party is limited to a single candidate and so there is no possibility of casting a preference vote In order to be elected, a candidate must secure an absolute majority If no one achieves this goal in the first election, a run-off election between the two leading candidates is held a fortnight later

the 574 deputies were elected on the national list, of these, five were Catholics and one was a Communist, ten came from the small parties left of center and seven from small parties to the right of center Only the votes of parties which have succeeded in electing at least one deputy in a district are counted in determining the victors on the national list

## The Senate

The constitution stipulates that the senators shall be elected by regions and that one senator will be allotted to a region for every 200,000 inhabitants, with an extra senator for a fraction of over 100,000 No region, however, except Val d'Aosta, shall have less than six senators regardless of population Senators shall be elected for six-year terms Voters must be twenty-five years old to vote in the senatorial elections and candidates must be forty (Arts 57-60)

The above provisions have been considerably amplified by the law of February 6, 1948, no 29, which controls the senatorial elections The regions are divided into as many senatorial districts as there are senators to elect This division is made by the Ministry of the Interior The various parties then put up their candidates in the electoral districts No man can run for senator from more than one region, but within the region he can run from as many as three districts Each party puts up only one candidate per electoral district The voter casts a single vote for the party and candidate of his preference If one of the candidates receives 65 percent of the votes cast within the district, he is elected If, as is usually the case, no candidate receives such a majority, a further process must be gone through to determine who is elected All the votes from all the districts in which a candidate was not elected outright by receiving 65 percent of the total vote are brought together and totaled by party The number of seats not assigned is also totaled The total party votes are then divided by one, two, three, four, etc , to and including the number of unassigned senatorial seats from the region, and the quotients thus obtained are arranged in order of magnitude The first seat is assigned to the party with the largest quotient and so on down the line until all the seats have been assigned to a party A still further procedure is necessary in order to determine which of the party candidates is to be elected This is done by finding the percentage of the total vote within his district obtained by each candidate In the case of men running in more than one district the largest percentage obtained is used The seats are then assigned to the party candidates in the order of these percentages There is no national list for the Senate [2]

[2] As was the case with the electoral law for the Chamber of Deputies, special provisions have been necessary for the Val d'Aosta, which elects a single senator The solution, however, differs from that applied to the election for deputy, where there is a run-off election a fortnight after the first election in the event no candidate receives a majority

As in the case of the Chamber of Deputies there are no by-elections, whenever it is necessary to replace a senator the next candidate in line takes his place

Besides the elected senators, of whom there are at present 237, there are three other categories of senators with equal rights in the Senate The constitution provides that all ex-Presidents are to be senators for life In the present Senate the only man who fits into this class is the former President of the provisional government, Enrico De Nicola, who served in that capacity from 1946 to 1948

The second group of senators for life are to be appointed by the President for outstanding services in the fields of art, letters, or science The number of such senators is limited to five

Finally, the present Senate includes some hundred additional senators who were appointed by the Constitutional Assembly, principally from among their own members The third of the temporary articles appended to the constitution provides that all deputies to the Constitutional Assembly who possess one of the following requisites will be appointed senator for the first Italian Senate (1) former Presidents of the Council of Ministers and of the houses of Parliament, (2) members of the former (Fascist) Senate,[8] (3) members who were serving their third term as deputies, (4) members who were thrown out of the Chamber of Deputies by the Fascists on November 9, 1926, (5) members who have served five years in prison as the result of a sentence of the Special Fascist Tribunal for the Defense of the State Former senators who were nominated to the *Consulta*, the national consultative assembly which preceded the Constitutional Assembly, were also included in this act of otherwise egocentric generosity in which the Constitutional Assembly indulged

A total of 107 senators were appointed under this provision, and the number would have been considerably higher had not the top party leaders who were eligible declined the honor The total number of senators in the present Senate therefore was 345 as of April, 1948 This number is gradually being reduced by deaths among the senators appointed by the Constitutional Convention, who, unlike the directly elected senators, cannot be replaced

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of the votes on the first balloting For election to the Senate a simple plurality is sufficient

A further exception has been made for Molise According to the fourth temporary article appended to the constitution, Molise, which comprises the province of Campobasso and which is generally considered to form part of the region of the Abruzzi, is treated practically as a separate region That is to say the Molise votes are not counted with the Abruzzi votes, Molise electing its two candidates quite independently of the Abruzzi In spite of this independence, however, Molise is not given the six votes to which a region is entitled, but only the two votes her 400,000 inhabitants would deserve as part of a larger region

[8] This includes only a handful of senators, most of whom, like Einaudi, were appointed before Fascism

**Local Elections**

Local government in Italy follows the general pattern of French local government In both countries the local legislature or council is elected by direct suffrage and the executive is elected by the legislature from among its own members The Italian system of election, however, varies with the population of the commune in question Two systems are used, one for communes with over 30,000 population and the other for the smaller communes

Local elections are regulated by the Lord Lieutenant's legislative decree *(decreto legislativo luogotenenziale)* of January 7, 1946, no 1, as modified by similar decrees of March 10, 1946, no 76, and March 15, 1946, no 83

The legislature *(Consiglio)* is composed of councilors *(consiglieri)* whose number varies with the size of the commune, according to the following table

| Population | Number of Councilors |
|---|---|
| More than 500,000 | 80 |
| More than 250,000 | 60 |
| More than 100,000 | 50 |
| More than 30,000[a] | 40 |
| More than 10,000 | 30 |
| More than 3,000 | 20 |
| Others | 15 |

[a] Provincial capitals with less than 30 000 population are treated in this group

Voting eligibility is similar to that which applies to the election for the Chamber of Deputies Many categories of persons are not eligible for election, including members of the judiciary or the administration, persons suing the commune, most types of clergy, illiterates, ex-Fascist leaders, any member of the hated Fascist Republican party that Mussolini founded after he escaped to north Italy, and generally persons who have been denied the right to exercise their former profession through epuration proceedings

In the communes which are not provincial capitals and have a population of 30,000 or less the election proceedings are relatively simple Each voter is entitled to vote for a number of candidates, equal to 80 percent of the number of persons to be elected (twelve in the communes of less than 3000 population, where fifteen councilors are elected, and sixteen in the larger ones, where twenty councilors are elected) He votes for these men by name and regardless of party This method virtually assures an 80 percent majority to the winning coalition

The system of voting used for the communal elections in the provincial capitals and in the other communes with a population of over 30,000 is not dissimilar to that used for the elections to the Chamber of Deputies The commune is considered a single electoral district and has no representation by ward or other subdivision The voter must choose a party and then may

indicate his preference among the candidates of that party The number of preference votes he is permitted depends on the number of councilors to be elected He has two, three, four, or five preference votes depending on whether the number of councilors to be elected is forty, fifty, sixty, or eighty A further provision prevails in these elections, however, which has no counterpart in the elections for the Chamber Besides the preference votes, the voter in the communal elections may cancel out the names of his party's candidates whom he does not like He may cancel any number of names so long as he leaves at least one name on the list

When the voting is finished the votes are totaled for each party and the totals are divided by every number from one to the entire number of councilors to be elected, following the system used for the election of senators in those cases in which no senator received a 65 percent majority in his district The quotients thus obtained are arranged in order of magnitude and the available seats are assigned to those parties having the largest quotients [4]

[4] The following table is an example of voting procedure in communal elections

Party A = 200,000 votes
Party B = 120,000 votes
Party C = 40,000 votes
Party D = 10,000 votes

10 men to be elected

Quotients

| A | B | C | D |
|---|---|---|---|
| 200,000 | 120,000 | 40,000 | 10,000 |
| 100,000 | 60,000 | 20,000 | 5,000 |
| 66,667 | 40,000 | 13,333 | 3,333 |
| 50,000 | 30,000 | 10,000 | 2,500 |
| 40,000 | 24,000 | 8,000 | 2,000 |
| 33,333 | 17,143 | 5,714 | 1,428 |
| 25,000 | 15,000 | 5,000 | 1,250 |
| 22,222 | 13,333 | 4,444 | 1,111 |
| 20,000 | 12,000 | 4,000 | 1,000 |

Winning quotients

200,000 = A
120,000 = B
100,000 = A
66,667 = A
60,000 = B
50,000 = A
40,000 = A
40,000 = B
40,000 = C
33,333 = A

Party A wins 5 seats
Party B wins 3 seats
Party C wins 1 seat
Party D wins no seat

In order to determine the individual candidates who have been elected, the total preference vote of each candidate is added to the total party vote for his party and the total number of cancellations he received is subtracted from this sum The results of this process are then tabulated in order by party, and those candidates with the highest totals are elected

## Chapter 36

# *Local Government*

IN THE PERIOD of the Renaissance all Italian government was local or at most regional And even in the larger regions authority was greatly decentralized However hateful the Teutonic principalities reestablished by Metternich might have been to the Italians, they kept the seat of power near at hand, and only the Lombards and the Venetians were left without a local government

With the unification of Italy under the house of Savoy a trend toward centralization set in which reached its apogee during the Fascist regime This system represented almost the greatest possible centralization and entrusted whatever functions were to be administered on a local level to officials appointed by the central government, over whom the local population had no control

With the advent of the post-Fascist period the pendulum started to swing the other way, and exponents of extreme decentralization like the Republican party and the industrialist Adriano Olivetti have seen in the realization of such a program the panacea for many of Italy's ills On the other hand, there has been a surprisingly strong resistance to the idea of decentralization from various sectors of the population, which, although they oppose regionalism and local autonomy for diverse reasons and generally make strange bedfellows, in the aggregate form a powerful alliance Included among these groups are the Communists, who are believers in a strictly hierarchical command, the Socialists, who want a paternalist state, the Liberals, who look upon the unification of Italy and the creation of a strong central government as their particular contribution to Italy's glory, the Nationalists and neo-Fascists of all ilks, who regard the strengthening of the state as the supreme goal of society, the mass of Italy's civil servants, who come from southern Italy and many of whom would lose their present positions should the northern Italians be able to select their own administrators and judges, and many of Italy's best theorists, who are loath to forego the greater theoretical perfection of the present system for one which potentially would be more democratic but without doubt would be more complicated on paper

## *THE REGION*

In the new constitution the forces for decentralization won considerable victories but the realization of the principles they fought for is still in doubt The greatest single victory of the decentralizers was the creation of the region The constitution recognizes two types of region The first type, to which greater autonomy has been granted, is comprised of the regions of Sicily, Sardinia, Trentino-Alto Adige, Friuli-Venezia Giulia, and Val d'Aosta The other regions are of the second category and are to enjoy a lesser degree of autonomy Three regions of the first type, Sicily, Val d'Aosta, and Trentino-Alto Adige, were functioning by the close of 1948, and the regional government of Sardinia was set up early in 1949

There were various reasons for granting greater autonomy to the five regions forming the first group and also for assuring them this autonomy at an early date The French-speaking Val d'Aosta was separated from Piedmont and set up a bilingual entity to counteract French claims against Italian territory Likewise additional autonomy was granted Trentino-Alto Adige and Friuli-Venezia Giulia to counteract Austrian and Yugoslav claims to those regions Sicily was granted special privileges to quiet the local independence movement there Sardinia was included because it has always been a rule to itself

All regions of both types have or are to have a unicameral legislature called the *Assemblea regionale*, elected by popular suffrage for four-year terms, and a government *(governo)*, composed of a president and a *giunta*, both elected by the legislature from among its own members The regions will have only specifically delegated authority, the extent of which varies among the regions in the first group and has yet to be determined with respect to those in the second group The regions are prevented from overstepping their power in two ways The central government will have a representative surveying the local situation in each region, who will have the title of commissioner *(commissario)*, on whose recommendation the central government can dissolve the governmental bodies of the regions in the interest of national safety, or if they act in what the President of the Council of Ministers considers an unconstitutional manner (Val d'Aosta Art 48, Sardinia Art 50, Trentino-Alto Adige Art 27) The second limitation is that imposed by the Constitutional Court, which is empowered to judge the constitutionality of an act of a regional legislature with respect both to the national and to the regional constitution (Trentino-Alto Adige Art 82)

Although there has been great diversity of opinion as to how much power should be granted the regions, in none of the four constitutions so far published has the power actually granted been of great consequence Few if any questions of national interest have been turned over to them Sicily (Art 14) can legislate on agriculture, land reform, city planning, public

waters, hunting and fishing, charities, the legal and economic status of the region's employees, elementary education, eminent domain, etc, *within the limits of national legislation* The regions are also given sufficient taxing powers to enable them to pay their way

## *THE PROVINCE*

Before the constitutional reform the province was the basic unit of local government It was copied after the French *département* and had the same type of organization This organization was a dual one deriving in part from the national government through the prefect and in part from the people through the locally elected legislature Before 1928 the prefect was charged with carrying out the functions of the national government within the province He took directives only from his superiors in Rome However, certain minor functions were entrusted to the local autonomous administration, composed of the elective legislature, the *consiglio provinciale*, and the executive, which the legislature elected from among its own members This executive body was called the *deputazione provinciale* and its head was called the president Although the functions of these autonomous units were practically limited to public roads, secondary education, and the maintenance of insane asylums, the Fascists did not like to see even such matters administered democratically and so the law of December 27, 1928, abolished the autonomous provincial governments and set up a new administration consisting entirely of persons appointed by the national government The new executive, which was composed of a single man, was called the *preside*, and the legislatures were called *rettori* (singular, *rettore)* These appointments were for four-year terms and were renewable At the same time the powers of the prefects were considerably increased

Originally the provinces were further subdivided into *circondari* (singular, *circondario)*, similar to the French *arrondissements*, but in 1926 the Fascist government performed one of its constructive acts and abolished these unnecessary units of local government, as well as the subprefects who ruled over them

Everyone seems agreed that doing away with the *circondari* was a good thing and there apparently is no desire on anyone's part to reestablish them The French, however, it will be remembered, have not seen fit to do likewise and still encumber their local government machinery with the *sous-préfet* and his administration, even though those worthy gentlemen are sometimes referred to as nothing more than animate *boîtes aux lettres*

The powers and the functions of the Italian provinces under the new constitution have not been determined The prefects still function as representatives of the national government and still are treated with the deference bestowed on petty kings After the new regional governments of Val d'Aosta and Trentino-Alto Adige were set up, however, the practice of sending pre-

fects to the provinces within these regions was abolished, though prefects were still sent to Sicilian and Sardinian provinces

## *THE COMMUNE*

As in France the smallest unit of local government is the commune It has a similar type of local government whether it is a large city or a sparsely inhabited mountain peak By a series of measures taken in 1926, the Fascists abolished the democratic governmental units of the communes and instituted the system of the *podestà* The *podestà* was the chief executive of the commune and was appointed for a four-year term by the national government In the larger communes the government also appointed a vice *podestà* and a *consulta*, the latter being a quasi-legislative body The postwar period has seen Italian local government revert to its pre-Fascist organization with an elective legislature *(consiglio comunale)* that in turn elects from among its own members the administrative body *(giunta comunale)* and the mayor *(sindaco)*

A peculiarity of Italian municipal governments is that when the elected legislature elects the administrative officers *(assessori)*, who form the *giunta*, these men automatically lose their vote in the legislature In a close election, therefore, after the majority group in the legislature chooses *assessori* from among its own number, it may find itself in the minority and the opposition group, now the majority, will refuse to cooperate with the *giunta* When this happens, as it did twice in Rome in the postwar period, the national government appoints an administrator, who is usually an ex-prefect, until new elections can be held This difficulty is obviated in the communes of less than 30,000 inhabitants by the electoral system in force there, which virtually assures the majority group 80 percent of the seats

Under the new constitution, the Italian system of local government lies somewhere between the French and the Swiss systems France still adheres to a system of extreme centralization that allows only limited powers to the *département* and the communes and gives virtually none to the *arrondissement* In each case the chief executive *(préfet, maire, sous-préfet)* is directly under the control of Paris In comparison with the French example, Italy, which under Fascism was more centralized than even France, has granted considerable local autonomy, particularly to the regions The Italian system, however, is a far cry from the Swiss Switzerland, like the United States, is a federation Italy is not The constitutions of the Swiss cantons are written by the voters of the cantons, and although the federal government can veto changes in the constitutions, it cannot make any positive amendments to them The constitutions of the Italian regions, on the other hand, are written by the national Parliament and the regions themselves appear to have no authority to alter their constitutions but are quite dependent on the pleasure of the national Parliament

Chapter 37

# *Italy as a Service State*

## *THE CIVIL SERVICE*

THE Italian civil service is overstaffed, underpaid, inefficient, and insubordinate There are more than a million government employees In order to spread the work most public offices are open six hours a day The Italian civil service is also underpaid, yet some 40 percent of the government budget is expended on wages and salaries, which, however, are so low that many civil servants find it necessary to accept outside employment Those in the professional ranks act as legal counsel or work as accountants on the side The more humble wash cars and do odd jobs During the early postwar years when thievery was rife persons who were wealthy or influential enough to get gasoline, and still did not have a chauffeur, used to hire civil servants as car sitters, to remain with the car while the owner and his guests dined, attended the theater, or went calling The inefficiency of the civil service results in part from the spread-the-work policy of the government, in part from the antiquated and time-consuming methods unconsciously used, but perhaps even more from the uncooperative attitude of the average civil servant toward the public One does not get far going to an Italian public office in the guise of a plain citizen seeking what is rightfully his It is more expedient to make oneself known as the friend or protege of some important person, even when the action one is seeking is of a routine nature patently the duty of the civil servant to perform This inefficiency, combined with the fact that the civil service is underpaid has led many civil servants to practice a method of increasing their insufficient incomes that in its crass form consists of accepting bribes Generally, however, their venality is of a less blatant and vicious variety The salesman who signs a government contract may share his commission with the official who authorizes the purchase, or he may tip the secretary who sees to it that the papers on the matter move expeditiously from desk to desk

The insubordination of the Italian civil service is as hard to explain as it is to combat, and leads to a state of affairs quite opposite to that found in Great Britain The administrative class of the British civil service is recruited pri-

marily from a social group whose politics are strongly conservative Yet it is this group of men who have put into effect the sweeping program of socialization sponsored by the British Labour government, a program with which many, probably the majority of them, are out of sympathy The loyalty of this administrative class to the government and the exemplary fashion in which they have carried out their duty as public servants have won them accolades from the very government which as individuals they oppose Italy is far from being so fortunate There a government whose social reforms are meager in comparison with Great Britain is impeded at every turn in their effectuation by a reactionary civil service inimical to any reform The success with which the Italian civil service impedes progress is such that it is often said of Italy that it is the government that proposes but the administration which disposes

A logical method for alleviating the problem of the overstaffing of the Italian bureaucracy would be to place a limit on hiring for a period of years The average annual turnover in the service is 5 percent If for five years no new person were hired except when a specific need was shown, the total number of civil servants would be reduced about 20 percent Until some such step is taken there seems little hope that the government can afford to pay decent salaries to and get good results from the government workers

## *THE COUNCIL OF MINISTERS*

Most of the members of the Council of Ministers head one of the executive departments of the Italian government, and it is through these departments or ministries that many of the functions of the government are carried out In recent years, however, as the range of activities placed under social control has increased in Italy as in the rest of the Western world, an increasing number of activities is being controlled by government agencies which are independent of the ministries

In 1948 Italy had sixteen ministries They were:

1 Presidency of the Council
2 Ministry of Foreign Affairs
3 Ministry of the Interior
4 Ministry of Justice
5 Ministry of Finance
6 Ministry of the Treasury
7 Ministry of Defense
8 Ministry of Education
9 Ministry of Public Works
10 Ministry of Agriculture and Forests
11 Ministry of Transportation
12 Ministry of Posts and Telegraphs

13 Ministry of Industry and Commerce
14 Ministry of Labor and Social Security
15 Ministry of Foreign Trade
16 Ministry of the Merchant Marine

The functions of some of these ministries are self-explanatory Others are faced with special problems in Italy, or have devised particular methods of handling the work, which are worthy of mention

## *PRESIDENCY OF THE COUNCIL OF MINISTERS*

Like other western democracies, Italy has jammed together in an executive office of the President numerous agencies performing disconnected functions that do not merit individual ministries

One of these agencies, the *Corte dei conti*, has been described elsewhere The functions of others are obvious from their titles, e g , the Central Statistical Institute, the High Commission for Hygiene and Public Health, the High Commission for Food, and the Tourism Commission A brief mention of two agencies, C I R and the *Consiglio di Stato*, seems appropriate here

C I R *(Comitato interministeriale per la ricostruzione)* is the economic planning board of Italy It is this agency that deals with the Marshall Plan and generally guides Italy's economic future

The Council of State is the principal advisory institution of the Italian government Besides its broad advisory functions, it acts as the supreme administrative court of Italy Its judicial functions have been described in an earlier chapter [1]

The top men in the *Consiglio di stato* are appointed by the government for life The minor officials are appointed on a merit basis by examination The organization on the whole lacks the peculiar prestige attached to the French *Conseil d'État*, but even in Italy it is an important government institution During most of the Fascist period its president was one of Italy's greatest legal minds Santi Romano, who is considered in good part responsible for the type of administrative law which operates in Italy

The nonjudicial part of the Council of State is divided into three sections They have the same type of authority but function with respect to different ministries These sections are purely consultative bodies and depending on the circumstances consultation with the Council of State is either optional or obligatory Certain matters of particular importance are heard by a plenary session of all the sections In the post-Fascist period there has been a special section established as an epuration court for the administration

## *THE MINISTRY OF FOREIGN AFFAIRS*

The Ministry of Foreign Affairs performs the tasks normally assigned to such a ministry It is concerned with all ordinary diplomatic intercom-

[1] See p 516

munication between Italy and the outside world It also has a special division to handle one of Italy's major problems—emigration The Italian foreign service is a career service not unlike what ours was before serious attempts were made to democratize it Although many of the men are individually of the highest competence, the service as a whole tends to be inborn and to represent a single class and a single point of view

The emigration section has been busy lately trying to get as many Italians as possible lucrative employment outside of Italy Italy is one of the few countries in Europe which came out of the war with an unemployment problem Most of the other European countries were suffering instead from labor shortages The Italian government has therefore, through the emigration section of the Ministry of Foreign Affairs, been able to sign agreements with many European countries regulating temporary emigration Actually, however, the performance of these agreements has often met with considerable difficulties For the most part two types of workers have been wanted either highly skilled specialists, of which Italy has not a superabundance, or the commonest day laborers, to whom would be assigned the work which the natives of the other countries felt beneath them to do and which therefore the Italians were not particularly eager to do themselves The first such postwar agreement was reached with Belgium, which sought miners There is very little mining in Italy and consequently there are few skilled miners This did not bother the Belgians, however, as they were willing to take inexperienced persons and train them They hardly had counted, however, on some of the prospects that arrived, such as middle-aged Sicilian barbers, who had never done a hard day's manual labor in their lives and had never lived in a cold damp climate The fault here lay in the recruiting system, which for political reasons had to accept a proportionate number of applicants from each of the Italian regions, whereas the north Italians would have been much better adapted to the work and the living conditions in Belgium than the Sicilians or the *Calabresi* After the Belgian agreement, many others were signed with various European countries Each had a provision either for bringing the worker's family with him or for sending home part of the wages for the family's support The administration of these systems, however, left much to be desired and the bad reports of the foreign working conditions discouraged many Italians from seeking employment abroad There was particular trouble along this line with respect to France

With one exception the European emigration envisaged a temporary migration The agreements signed with Czechoslovakia and with various Latin-American countries, however, called for permanent emigration The Czech agreement called for several thousand Italian farmers to settle permanently on some of the land taken from the Sudeten Germans Although the land was fertile and buildings were in good condition, apparently Italy has been unable to fill the quota This means that out of the 2,000,000-odd Communist

party members in Italy not much more than 1 percent were willing to go to live permanently behind the iron curtain

The thought of emigration to Latin America, particularly to Argentina, is much more pleasing to the Italian worker, although he is learning that even here the fabulous opportunities are lacking which the United States afforded a quarter-century ago For the most part the South American countries, like the European ones, want either highly skilled workers or completely unskilled labor which they can exploit, and so in spite of the time and effort of the Italian government, the effectiveness of the emigration division has been disappointing

## *THE MINISTRY OF THE INTERIOR*

The Ministry of the Interior has functions similar to its French homonym It is in charge of the police and is primarily concerned with the maintenance of order within the country

The national police force of Italy are the *carabinieri*, so named because at one time they carried carbines The *carabinieri* are selected for their height and their good looks They wear colorful uniforms and large three-cornered hats and are almost always seen in pairs The *carabinieri* have good morale and are generally popular with the people In their task of maintaining order they are assisted by the local police forces Although these differ in morale and ability from place to place, their prestige and general performance are generally inferior to those of the *carabinieri* The local police are not under the direct supervision of the Ministry of the Interior, but in a moment of crisis they naturally work with the national police, the *carabinieri*

The Ministry of the Interior is also responsible for the prefects, the little men gods who have virtually autocratic powers within the provinces It appoints and dismisses them at pleasure The majority of the prefects, however, are career men who work up through minor administrative posts and crown their official life as prefects This ministry also appoints the *questori* (singular, *questore)*, the provincial police chiefs who have their noses in everybody's business

Among other functions attributed to this ministry are those concerning fire protection, surveillance over churches and church property, and war relief The latter function was carried on by a special ministry in the immediate postwar years

## *MINISTRY OF JUSTICE*

The Ministry of Justice is at the head of the judicial system With respect to the personnel of the courts, however, control will now pass to the newly created High Council for the Judiciary This ministry is also in charge of the entire prison system Among its lesser functions are those of publishing the official gazette *(Gazzetta ufficiale)*, which contains all acts of Parliament,

and supervising various professional associations such as those of the lawyers, architects, actuaries, engineers, chemists, surveyors, bookkeepers, and agricultural and industrial technicians

## *THE MINISTRIES OF FINANCE AND THE TREASURY*

Two ministries administer the fiscal operations of the Italian government They both are located in the same building, the Ministry of Finance, and their functions are so intertwined that it is better to take them up together

Besides performing the obvious and basic functions of tax collecting and disbursing, the Ministries of Finance and the Treasury are charged with several ancillary functions, which assume a considerable importance in their own right These include the services afforded by a general accounting office *(Servizio di ragioneria)*, which serves all the other ministries, and a central purchasing agency *(Provveditorato generale dello stato)*, which buys all government supplies and prints all government material Lesser functions include control over and responsibility for printing the national currency, payment of war damages, administration of government lotteries, supervision of municipal finances, and supervision of lands in the public domain For the control of the customs, the Ministry of Finance has a special armed force, the Finance Guards

Government monopolies are under the control of the Ministry of Finance These include the production of tobacco and the manufacture of cigarettes, as well as the salt and quinine monopolies

The Italian tax system leaves much to be desired Tax collectors are unpopular even in countries where there is a traditional respect for government and an early acquired habit of obedience to the law In Italy there are no such traditions and habits and the vast majority of the population are proud when they succeed in cheating the government This attitude, of course, multiplies the tribulations of the tax collectors

Italian taxes are heavy The basic taxes are the following (1) a general tax on income, paid when earned, at four different rates depending on whether it is income earned from (a) rent of rural land, (b) rent from urban land, (c) income from work or capital, or (d) profits from farming, (2) an inheritance and gift tax varying (a) with the kinship relationship between donor and donee, (b) with the share of the estate, and (c) with the total size of the estate, (3) a series of taxes on business transactions such as stamp and registration taxes, and (4) a series of taxes on consumption of which perhaps the most important is the 3 percent general turnover tax, which must be paid on each sale from the original producer to the ultimate consumer Other types of sales tax include the amusement taxes and the taxes on the manufacture of certain products, such as beer, coffee, synthetic fabrics, electrical power, sugar, spirits, and so forth

The main personal tax is the special income tax *(imposta complementare)* which is paid by each individual on his total income

Italy's most spectacular tax is its stupendous capital levy As planned, this tax will be in two parts a basic 4 percent property tax and a progressive tax on net capital of over 3,000,000 lire ($50,000) The rates for this tax are expected to be from 6 percent for 3,000,000 lire to 41 percent for net capital of over 1,000,000,000 lire Payment may be made in installments and must be completed by December 31, 1951, unless the majority of the capital is in real estate, in which case a further extension of two years is to be granted [2]

The weaknesses and unfairness of such a tax system are fairly obvious The Italians must be given credit, however, for greatly simplifying their system in the last few years and for reducing the number of the overlapping taxes appreciably in this period The great stress placed on sales taxes, however, places an unequal burden on the poor, and the business turnover tax works to the serious disadvantage of the small concern which performs a single function in a productive circle Such a tax, for instance, is a boon to the Montecatini chemical monopoly, which owns its own mines and does all its own processing and sells directly to the retailer, thus paying a single 3 percent turnover tax, while a series of competitors may have had to pay three or four such taxes before their competing product can reach the same retailer

The most important government financial institutions that are not under the control of one or the other of these finance ministries are the Bank of Italy and the I R I *(Istituto per la ricostruzione industriale)* The Bank of Italy *(Banca d'Italia)* was created August 10, 1893, as an outcome of the *Banca romana* scandal in which the perennial Premier, Giovanni Giolitti, was implicated Previous to this there had been several national banks, but on its creation the Bank of Italy was given a supreme position and the older Bank of Naples and Bank of Sicily were relegated to the position of subsidiaries The Bank of Italy is a national bank, whose governor is chosen by the Italian government The bank issues all government currency

I R I is a Fascist organization which has outlived Fascism Mussolini, who was no economist and professed little interest in economic matters, had no particular liking for mixing government and business By 1933, however, the major banks in Italy were in serious financial condition The average investor, instead of taking his own risks in industry, tended to put his savings in the banks, and the banks in turn were forced to finance industry During the expanding economy of the twenties things went along smoothly enough, but when the depression hit Italy, industry was no longer able to pay interest on its loans and the banks were squeezed To save the national economy, the national government stepped in and created I R I, which was empowered to

[2] Carlo Cosciani, "Italian Tax Policy," *Banca nazionale del lavoro quarterly review*, no 2, 1947, pp 95-97

buy from the banks their industrial investment In the transactions which followed, I R I not only acquired all or part of the stock of many of Italy's most important industries but also controlled the two most important "private" banks in Italy the *Banca commerciale italiana*, and the *Credito italiano*

At first the Fascists apparently thought of I R I only as a temporary measure and made some attempt to interest private capital in taking back government-held properties Since, however, the holdings were primarily in the non-economic "protected" industries, which the government favored for reasons of "autarchy" and preparations for war, the Fascists soon saw the advantages of government control in these sectors and gave I R I a permanent charter

During the short-lived Italian Fascist Republic of Salò, Mussolini tried to win the favor of the workers by turning over the management of the I R I -controlled corporations to the workers themselves, and, inspired by this action of the Duce of Fascism, the Communists and left-wing Socialists have now made this their official policy The other parties, however, seem content to let I R I continue to function in the manner it has functioned so far

Nationalization in Italy, then, has gone fairly far It has occurred out of necessity, because private business was no longer financially capable of carrying on alone Under I R I nationalization expands only as private enterprise relinquishes the field and is forced to seek loans from the government

The real test of the I R I is yet to come Under the stress of war preparations it was relatively easy to keep the war industries going, and I R I was able to operate with virtually no change in management from that which previously had been directing the same industries when they were in private hands, there were work and profits for all even if they resulted from government subsidies Now that the work must be spread, the government must make up its mind about the policy it is going to adopt with respect to I R I Many I R I concerns are notoriously inefficient, and have excessive costs In spite of these conditions, should the government continue to favor I R I concerns over their privately owned competitors, which are generally smaller and often more efficient, or should it support the healthier units of Italian industry and give out its contracts to the lowest bidder? In this respect the government has been accused of inordinately favoring its own, to the detriment of the more efficient private plant [3]

## *MINISTRY OF DEFENSE*

With the creation of the Ministry of Defense on February 4, 1947, Italy combined the War, Navy, and Air Ministries into a single coordinated Ministry of Defense, and in so doing followed the general pattern of the other Western democracies

[3] For a brief and clear discussion of I R I see Mario Einaudi, in Fritz Morstein Marx, *Foreign Governments* (New York, 1949), pp 272-278

One of the disquieting things about Italy's new democracy is the country's unwillingness to abandon its former military pretensions and turn its meager national resources to fields of endeavor more productive than the Italian armed forces The Italian army is notoriously inefficient, and still democratic Italy has kept the principle of universal compulsory military training with hardly a dissenting voice raised in protest The Italian navy, which is an appreciably more respectable organization (this is incidentally the rule for all Western sea powers), was drastically reduced in size by the provisions of the peace treaty, and the stipulations that Italy turn over part of her fleet to certain of the Allied powers, particularly Russia, perhaps offended Italian feelings as much as any other single item in the treaties Again it seemed that no one in Italy realized that the new democratic Italy could not afford to maintain a large navy and that in decimating the fleet the Allies were in reality removing from Italy the temptation to try to keep up with the Joneses in a field where they could not possibly carry the fiscal burden that such pretensions entailed

As in other countries, the Italian air force was the most pampered of the military services and had the most prestige Under Italo Balbo, who next to Mussolini was Fascism's most inspiring leader and most able administrator, the air force received international acclaim for its speed records and for the intercontinental squadron flights which Balbo personally led to the Chicago Century of Progress Exposition and elsewhere Much of this international prestige was lost, however, during the Ethiopian war and thereafter, when Mussolini's son, Bruno, described the aesthetic pleasures in bombing defenseless natives, saying the bombs burst open like giant flowers, and when Mussolini begged Hitler for the honor of being the first to bomb London

With the exception of the *carabinieri* and a few special troops, the enlisted men in the Italian army are all conscripts either serving their period of compulsory training or called up again on account of some national emergency These enlisted men are poorly treated and poorly paid They come to distrust if not to despise many of their officers and learn little discipline or desire to fight After the armistice with Italy there were many Italian officers who were eager to fight on our side against the Germans It was not possible, however, to set up an Italian army of any size in the field because the private soldiers were not interested The same simple Italian who knew how to fight bravely and successfully as a partisan, and whose son fought bravely in our army, was by and large unwilling to follow the kind of leadership the Italian army officers had to offer

The method of selecting officers for the Italian army is based on education Those men who have received the baccalaureate degree, which permits them to enter a university, must serve as officers The less-educated and the non-educated serve as enlisted men Gentlemen's sons who lack the brains to get through the stiff Italian secondary schools must also serve as enlisted men,

but they tend to receive special assignments, e g , as chauffeurs to officers

Morale in the Italian navy is considerably higher than in the army Here the cleavage that exists between the officers and the enlisted men in the army is much less apparent Many units of the fleet, for instance, joined the Allies after the armistice The navy has six regional headquarters at both ends of the Adriatic (Venice and Taranto) and the Tyrrhenian seas (Genoa and Naples) and on the islands of Sicily (Palermo) and Sardinia (La Maddalena)

As in other countries the air force is a highly select group whose members must pass rigorous physical examinations Admiration for speed, the spectacular, and individualism being what it is in Italy, the air force is perhaps even more favored than in other countries The army maintains a military academy at Modena for those aspiring to the position of career officer, and the navy has an academy at Livorno

## *MINISTRY OF EDUCATION*

The Ministry of Education has supervisory control over all education in Italy with the exception of the military and naval academies and directly administers the public school system Public libraries, museums, art galleries, and astronomical observatories also come under its supervision

The Italian school system is modeled after the French, and the best of Italy's schools are on a par with the similar grades of the French schools The Italian average, however, is lower

There are six grades of elementary school in Italy After completing the fourth or fifth year, however, the student who intends to pass on into the secondary school system may take his examinations Depending on the course taken, there are seven or eight years of secondary school Generally the first three years comprise the *scuola media inferiore*, a lower secondary school somewhat similar to our junior high school From this the students pass to two years of *ginnasio*, and then to three years of *liceo* The *licei*, similar to the French *lycées*, prepare for the universities For those who do not plan to attend the universities there are various types of finishing schools, including those for grade school teachers *(istituti magistrali)* For these latter the complete secondary school course is seven years, instead of eight

For the preschool age in some localities there are kindergartens of a private or charitable nature

Before the war, according to the official statistics, the vast majority of the children in Italy went to elementary school, about 15 percent attended secondary school, and about 2½ percent attended universities The postwar figures for the school year 1945-1946 show double the number of university students (189,665), a slight increase in the secondary school enrollment (878,993), and a falling off of about 800,000 in the grammar school enrollment to 4,359,639

There was a general feeling in Italy that during the war years and immediately thereafter the school standards were greatly reduced Nevertheless, as in France, education remained a grueling experience In the immediate postwar period, out of every 100 students who entered the first year of the secondary school, less than 11 successfully completed the 8-year course A few years later the examinations became even more difficult

Although Italian standards are high enough to satisfy the most exacting, the education system has not done so well at the other end of the picture, and illiteracy is still a serious problem in Italy According to the 1931 census 21 percent of the population over six years of age was illiterate, including 49 and 46 percent, respectively, of the inhabitants of the regions of Calabria and Lucania According to postwar estimates this figure has been reduced by over half, but in 1946-1947 there were still well over 300,000 children in southern and insular Italy between the ages of 6 and 11 who were not attending school The present estimates for Calabria and Lucania are 32 and 30 percent respectively [4]

When the Italian student has passed the hump of the *esame di maturità*, which graduates him from the *liceo*, the rest of his education program is relatively easy His university course will take him from four (law, letters, philosophy) to six years (medicine and engineering) Particularly the former courses are comparatively easy, as the student is already expected to be trained in the techniques of thought and presentation University life as such is virtually nonexistent After the student has straightened himself out with the Italian equivalent of the registrar's office, which in all countries is likely to develop into a lingering ordeal, he becomes friends, via tips, with the *bidello*, the janitor of the building in which his division of the university holds classes He is free to attend classes or not throughout the year and can feel sure he will never be called on At the end of the year he must present himself for a fifteen-minute oral examination for each course he is "taking," while the *bidello* has attended to the few administrative details required during the course of the academic year This system is possible only because of the extremely rigorous training imposed by the *licei* Students who have successfully withstood this ordeal are quite in need of the period of freedom and mental relaxation which the university system affords them Good students, of course, do not fritter away these years They learn to work independently and to use the techniques drilled into them by the *licei*

By far the greater part of the Italian educational system is under the direct supervision of the Ministry of Education Private schools and universities, however, do exist These are generally run by the Roman Catholic Church and are particularly common at the secondary school level

The ministry also runs the various art academies and musical conservatories

[4] Tommaso Salvemini, "Previsioni sull'analfabetismo attuale in Italia," *Riforma della scuola*, 1948, pp 101-102

of the state Here some 8000 students are in training for a professional life as artists

### *MINISTRY OF PUBLIC WORKS*

The Ministry of Public Works, as its name implies, is primarily concerned with the construction work carried on by the government It builds roads and public buildings, dams streams, sets up hydroelectric plants, builds aqueducts, and is in charge of new railway construction There is attached to it a consultative planning body, the High Council for Public Works

Not all public works, however, are carried on under the administration of this ministry Land reclamation work, for instance, is under the Ministry of Agriculture, and railroad maintenance is under the supervision of the Ministry of Transportation

One of the most important functions of the Ministry of Public Works is the maintenance of the state roads A quasi-autonomous body, the A A S S. *(Azienda autonoma statale della strada)*, has been set up within the ministry to carry out this work

Owing to the poverty of the country and the amount of money it spends on the Defense Ministry, the Italian public works program is far behind where it should be In the south of Italy there are still communities without schools and even without water, not to speak of roads These conditions make a farce out of some of the pious promises of the constitution Progress is being made along these lines, but there is still a long way to go

### *MINISTRY OF AGRICULTURE AND FORESTS*

The Ministry of Agriculture and Forests performs all services concerning farming, forestry, hunting, and fishing It is also in charge of the farm savings banks and land reclamation projects

Italy is primarily an agricultural country and has its tone and its lifeblood from its farmers Italian farmers, however, are not a single type but are highly stratified, the poorest farmers are the hired hands, paid by the day, the richest, the large absentee landowners Between these extremes lie many different types of farmer whose precise status is determined by often hoary local traditions

With respect to farming, as with so many of its other culture traits, Italy, like Caesar's Gaul, is divided into three parts north Italy, central Italy, and south Italy In the north most farming is carried on either by independent farmers who own or rent their land or by large industrial farm units, where the work is done by hired hands who live on the land and are engaged on yearly contracts The first of these groups is stationary and primarily Christian Democrat in politics, the second is migratory and often has Communist leanings

Land in north Italy is farmed efficiently and yields well, except for the

marginal lands on the mountainsides There is, however, a serious unemployment problem, caused by overpopulation, a demographic tradition opposed to contraception, and a reluctance on the part of many young persons to stay on or return to the industrialized farm units This latter factor brings about the paradoxical situation in which an overpopulated region actually reports labor shortages in such unspecialized work as farm labor

Living conditions on the industrialized units are not bad, but they are necessarily restrictive and yield little of the satisfaction to the worker found in tilling his own soil, or the plot of ground he has rented Young people particularly resent the regimentation on these farms, where, for instance, it is necessary to have special permission to go out at night, as the gates to the buildings are locked at a certain hour Fifty years ago this did not specially bother the workers, but now the young ones want to go to the movies This particular phase of the unemployment problem in Italy offers no insurmountable difficulties, the workers in question are competent farmers, ranging from farm hands to trained agricultural technicians, and it should be relatively simple to find means for them to emigrate

A variety of produce is grown on the north Italian farms Perhaps the most important single item is rice, one of the staple foods of north Italy, but meat, dairy products, wheat, corn, fruits, and vegetables also are grown

In central Italy there are two great classes of farm people the *signori* or *padroni*, the landowners, the majority of whom live on their land and take an active interest in its upkeep and operation, and the tenant farmers *(mezzadri)*, prolific and industrious workers who may vote communist for the present, mostly as an expression of their anticlericalism, but who are prosperous and basically conservative In the tenant farming system which prevails in central Italy the owner provides the land, the capital, the house, the tools, etc , and the farmer supplies the labor The produce, including meat and dairy products, is divided evenly between the farmer and the owner [5] In this section the owner usually has a number of farms each with a large family on it and lets the families remain on the same property for many years, often for life

In the south there are many large farms, *latifondi*, where the farmers live miserably There are also small farms, owned by the farmers themselves, where the conditions are often worse These conditions have been described in some detail in the chapter on the regions

It is child's play to criticize farm conditions in southern Italy but far from easy to suggest feasible remedies for them It is simple enough to say the *latifondi* must go but quite a different thing to devise a system to replace them *Latifondi* are usually large tracts of land farmed by hired hands, under the supervision of the owner or his agent The hired hands are paid low wages and only for the days they work They do not live on the farms

[5] The Communists advocate that a larger share be given the *mezzadri*

but in village clusters, often miles away, and every work day they must either walk or ride mulcback to and from work

These men cannot live directly on the farms because there are no houses there Even if the owners built houses, there would be no water If the owners were dispossessed, there would still be no water, and the farmers, who are for the most part illiterate (in Calabria in 1930 more than 50 percent of the married couples could not sign their names), would have to go somewhere for guidance on financial and legal questions Even if the government builds more schools to reduce illiteracy, still the children will be too poor to go to school as they must work on the farms to eat Even if the government paid the children to go to school, as it is reported the Russian government does, the educated children would leave the farms and seek positions in the government bureaucracy, so the Italian government after having strained itself to the breaking point financially with the school program might well be forced eventually to expand its already ample bureaucracy in order to absorb the additional flow of unproductive bureaucrats[1]

The independent farmer of southern Italy, however, is often in an even more miserable condition This man has generally been able to buy only marginal land but he has all the pride of white trash In order to break even financially, he and his family work fourteen to sixteen hours a day and still live in abject misery Yet these people despise the *bracciantı* (hired hands) whose politics tend to be leftist, and in order the more to disassociate themselves from them support the reactionary policy of the rich landowners

Poverty is further increased by the fact that the crops in the south are not diversified and the farmer must buy many of his necessaries In central Italy, particularly Tuscany, Emilia-Romagna, and the Marche, the crops are so diversified that each farm is virtually self-sufficient The farmers' flour, milk, cheese, oil, fruit, meat, eggs, wine, and vegetables are home grown, and sugar and salt are among the few food items which must be bought

The agricultural picture in north and central Italy is not promising, but the south needs radical reform Given time, and a peaceful world, it should be a good investment from a financial as well as from a humane point of view, as southern Italy has the water for irrigation and hydroelectric power which together could make prosperous and fertile farms out of what is now for the most part marginal land, but this cannot be accomplished overnight or by such demagogic proposals as the immediate division of the land or the setting up of workers' cooperatives Many Italians seem to see only the necessity of land reform, the magnitude of the problem escapes them It is far from being one of these problems which is solved as soon as it is recognized Its solution will require great financial resources, the best available technical skill, and many years of sober, patient, backbreaking work The De Gasperi government is pledged to a program of land reform, but up to the beginning of 1950 although much talking had been done little

concrete evidence of reform was visible In general terms, the program envisaged buying from the owners all farm land in excess of a certain maximum and parceling it out to individual farmers and cooperatives on easy long-term payments and after improvements have been made where necessary

With respect to forestry, hunting, and fishing, the department's functions are more circumscribed and fall more nearly within its present potentialities

Much of Italy's scant forest land is state property and is administered directly by the department through the *Azienda di stato per la foreste demaniali* Hunting, which is a passion indulged in by what appears to be a large proportion of the population, and fishing, usually a profession rather than a sport in Italy, are controlled through another division of the department, the Central Office for Fishing and Hunting *(Ufficio centrale per la pesca e la caccia)*

## *MINISTRY OF TRANSPORTATION*

During the Fascist period a single Ministry of Communications performed the work of the present Ministries of Transportation and Posts and Telegraphs This ministry was for many years directed by Count Costanzo Ciano, the father of Gian Galeazzo Ciano, who married Mussolini's eldest daughter The elder Ciano was one of the best administrators of the Fascist period, and his ministry was one of the most effective and honest This spirit has been carried on to the post-Fascist period, particularly with respect to the Ministry of Transportation

The Ministry of Transportation became world famous when it made Italian trains run on time It has as its main function the administration of the state railroads, which include practically all the rail lines of the country The ministry is filled with engineers and technicians The Fascists had electrified practically all the main arteries of the system before the advent of the war, but on their retreat the Germans ripped up as many of the rails as they could, took all the copper wiring used for electrification, and blew up the bridges Thus the reconstruction of the transportation system became one of the first major tasks of the post-Fascist government Fortunately the government did not allow politics to interfere with this program and although the ministers changed with the vicissitudes of their respective parties, the ministry was always under the direction of an active and able man from the advent of Ugo La Malfa in 1945 through Riccardo Lombardi and Giacomo Ferrari to the present incumbent, Guido Corbellini [6]

In the space of a few years the Ministry of Transportation has completed

[6] La Malfa, a Republican, and Lombardi, a P S I Socialist, were members of the Action party when they served as Minister of Transportation Ferrari is and was a Communist Corbellini was a career man in the ministry when he was appointed minister as an independent by De Gasperi Later he joined the Christian Democracy and was elected senator from the highly Catholic Veneto

its reconstruction job and got the railroads running as they ran before the war The bridges are up again on all the important lines, and electrification is going ahead now on lines that were not electrified before the war Only the rolling stock still is below prewar standards Cattle cars are still used on the branch lines for third-class passengers

The state railroads are the only transportation facilities that the ministry administers directly, but it has indirect control over interurban streetcar and bus transportation as well as over internal navigation These routes are administered by private companies that have been granted concessions by the ministry The ministry has also several planning boards and research councils that study problems related to transportation

Before the war the state railways regularly operated on a profit, but since the war the reverse has been true It is estimated that 24 percent of the assets of the state railways were destroyed by the war, including 55 percent of the rolling stock and 96 percent of the supplies in store In the fiscal year 1940-1941 the state railroads showed their greatest profits (998,000,000 lire) Eight years later their estimated loss was 63,210,000,000 lire [7]

Besides the state railways there are private railways in Italy Except for some of the suburban lines from Milan to the resorts on the Italian lakes, most of them are of a definitely secondary nature

## *THE MINISTRY OF POSTS AND TELEGRAPHS*

The Ministry of Posts and Telegraphs exercises a monopoly over the telegraph and postal communication system of Italy Unlike the American postal service, the Italian service used to show a profit although often a small one Those days, however, are gone, and for 1948 the ministry reported a loss of 10,174,700,000 lire

The other public services, e g , telephone, gas, and electricity, are privately owned in Italy Each of these services is supplied by numerous but generally noncompeting private enterprises Although privately owned and operated, these companies are now being granted government subsidies to defray the expenses of repairs and reconstruction

## *THE MINISTRY OF INDUSTRY AND COMMERCE*

The Ministry of Industry and Commerce is a part of the old Fascist Ministry of Corporations, which undertook the supervision of all phases of industry, commerce, and labor The post-Fascist ministry has been stripped of most of its powers In its present form it is mainly a statistics-gathering agency and a consultative body It is, however, in charge of the nationalized coal mines and controls the patent and trademark registration offices The ministry also has supervisory control over private insurance companies

[7] Francesco A Repaci, "Le ferrovie dello stato durante la guerra e nel periodo della ricostruzione," *Congiuntura economica*, January 20, 1949, pp 5 ff

As has been explained, Italian industry is an industry of extremes On the one side are the few large concerns that dominate several of the industrial sectors On the other stand the countless little industries, composed of workers more similar to artisans than to assembly line workers Unlike American industry, or British or French industry, Italian industry is, however, highly organized into a single industrial association, *Confindustria*, which acts as legal counsel, a research and information bureau, and a planning agency for industry

In a desperate effort to win the support of the workers during the last months of the infamous republic of Salò, Mussolini instituted a system of workers' councils *(consigli di gestione)*, which were to share responsibility with management After the liberation of northern Italy many of these *consigli di gestione* expelled the management and took over the factories themselves Up to the present, little has been done to determine the legal status of these councils although much has been written and even more orated on the subject Except for a few men who were "liquidated" as well as "epurated" management is now generally back in command, but there is still agitation to give the *consigli* the legal right to sit on the board of directors, and in some of the factories they still have considerable de facto power The *consigli* are generally in the hands of the Communists

These and other problems explain but do not condone the attitudes of too many Italian industrialists, which can be described mildly as antisocial Their prime interest is in quick profits, which then will be transferred out of the country where they will be "safe" There are, of course, many and shining exceptions to such a generalization, but it is true that the typical Italian industrialist lacks the public spirit that would be found in British and American industrialists under similar circumstances

## *MINISTRY OF LABOR AND SOCIAL SECURITY*

This Ministry has also been stripped of most of the powers it exercised under Fascism and is now primarily a statistics-gathering agency Its functions are divided into four major categories emigration, labor, social insurance, and cooperatives

The emigration section is concerned with unemployment and internal migration, and shares with the Ministry of Foreign Affairs the control of emigration proper

The labor section is chiefly a statistical agency which compiles information on the unions, labor disputes and like matters

The social security division performs the same type of function with respect to social insurance Many of the social security laws are written by the experts in this section

The cooperative division performs similar functions with respect to the cooperative movement in Italy

The field of labor is further regulated by the regional and provincial labor offices, which serve the quadruple functions of employment agencies, recruiting offices for emigrants, mediation services, and statistics-gathering agencies They operate under the control of the Ministry of Labor

Italy also has a group of labor inspectors whose function is to see that the government's labor legislation is put in practice These men naturally work in the field In the south, where there is little but farm labor, the inspectors are few Most of their work is done in the industrial northwest

The vast functions that were performed by the Fascist Ministry of Corporations have for the most part been nominally returned to private hands It is not surprising, however, that after twenty years of Fascism the people have become a little rusty as to democratic procedures and that more from a lack of preparation than an unwillingness to handle things for themselves they have been forced to give much of the power thrown in their laps to organizations that are little more than nominally democratic

This has been particularly true with respect to the labor movement After the fall of Fascism, the leaders of the major "mass" parties got together and decided to attempt to continue the Fascist idea of a single unified labor movement In this way they hoped to avoid the type of internecine labor strife that marred the labor scene in pre-Fascist Italy and to a degree still does so in our own country To further this scheme the parties then appointed various labor leaders from among their own members and set them up as de facto national secretaries of the newly constituted General Confederation of Labor *(Confederazione generale italiana del lavoro)*, generally known as the CGIL

Although the CGIL has served a useful function in postwar Italy, several factors impeded its efforts to become a true union movement Perhaps the most important of these was lack of funds At one time the Farmer's Union *(Confederterra)*, although it boasted 2,000,000 members, spent 15 percent of its annual budget for the acquisition and maintenance of one automobile at union headquarters Another weakness is the lack of experience with democratic and union techniques Italians at best are poor organizers and in the field of labor they were further handicapped by the unavailability of adequately prepared personnel

But the deathblow to an independent labor movement was dealt by the political parties, which refused to give the movement an independent existence Decisions on labor matters were treated as ordinary questions of policy and were hashed out in party meetings where labor was represented only by the party members designated by the parties themselves as labor leaders

Each of these weaknesses was further accentuated by the tactics of the Communist party Although money was perhaps the supreme need of the unions, the Communists opposed as undemocratic even a voluntary checkoff of union dues on the part of management They insisted on the more costly

and less efficient method of weekly worker's collections Partially as a result of this, many of the unions could not afford to pay living wages to labor organizers To meet this situation the Communist party was always ready to supply workers on the party payroll gratis to the confederation

Although a little something has been learned about democratic techniques in the four years of the post-Fascist period, the independence of the unions from the parties is still far from taking place In this respect the Italian situation is the reverse of the French, where the syndicalists, who oppose any traffic with the government, have a powerful and popular tradition behind them

The fact that the Italian unions do not operate as proper labor unions does not mean they do not perform a useful function, it merely means that they do it in a different way Lacking the money to carry on a long strike against management, they prefer to act as a labor lobby and treat with the government Lacking the weapon of economic power comparable to that of the American unions, they use the only weapon available to them, threat of violence No union leader in his right mind makes this threat directly, of course, he is content to say, "If the workers' demands are not satisfied within two days, I cannot be responsible for what they may do" Furthermore, this statement is often truthful Responsible labor leaders know that actual violence is likely to backfire, whereas potential violence is usually a sufficient threat Usually they will do what they can to maintain labor peace, but there is always some local demagogue and firebrand who is likely to set things off

In postwar Italy, then, labor gains have been made primarily on the political level, through legislation Usually the procedure was for labor first to exert political pressure, then if possible to sign an agreement with the powerful *Confindustria*, and third to integrate this agreement with a government decree, making it enforceable also against nonmembers of *Confindustria*

The CGIL was organized as a tripartite affair with equal power and responsibility to the three secretaries representing the three major mass parties Less representation was also given the Republican and Action parties But almost from the beginning the confederation was dominated by a single man, its Communist secretary, Giuseppe Di Vittorio, one of Italy's ablest and most tireless men Nominal tripartite leadership, however, was maintained until after the confederation's first national congress in June, 1947, where the Communists received well over half the votes and consequently assumed complete control At this time the confederation was claiming about 6,000,000 members, but it is difficult to tell what the correct figure was and it is doubtful if even the CGIL itself knew The CGIL is organized in a dual system of hierarchies, reminiscent of the Fascist system Membership was held jointly by the national federations of workers, organized by categories, and by the provincial labor chambers, which unite within themselves all the workers within the province Thus, for example, a textile worker in Bergamo

province would belong both to the Bergamo labor chamber and to F I O T, the national federation of textile workers, and both of these organizations, in turn, would be affiliated to the confederation, the C G I L (Officers in both the national federations and the labor chambers are also chosen from above in accordance with the political preferences of the members) Individual membership in the C G I L is ascertained by the payment of a small annual fee (during 1945 and 1946 it was the equivalent of only a few cents) to headquarters by the labor chamber, for each member Since each membership card paid for entitles the labor chamber to a vote at the congress, it is likely that certain provincial chambers padded their membership outrageously

The labor confederation got under way during a period of coalition governments when the three great mass parties, the Communists, the Socialists, and the Christian Democrats were collaborating Hence it was relatively simple to maintain labor unity as well With the advent of the fourth De Gasperi government on May 31, 1947, however, the Communists and the left-wing Socialists joined the opposition, and owing to the extreme political controls exercised over the labor movement a unified program was no longer possible

The first group to break away from the confederation was the Christian Democrats, who formed their own union in 1948 In doing this they were repeating their practice of the pre-Fascist period when their "white" unions were competing for the most part unsuccessfully against the "red" unions of the Marxists The immediate cause of the break was the continued use of the labor movement by the Communists and their allies for purely political purposes It was their policy to try to embarrass the government as much as possible by series of more or less province-wide general strikes These strikes did little damage to the country as a whole and were marked by remarkably little violence They did, however, exasperate the government and win the animosity of many workers, who, as the usual result of the strike, gained nothing and lost a couple of days' pay The Christian Democrat union is known as the L C G I L *(Libera Confederazione Generale Italiana dei Lavoratori)* This union claims to be apolitical, but there is little evidence of other than Christian Democrat control or support Its national secretary is Giulio Pastore, a Christian Democrat deputy high on the councils of his party, and his top associates are Christian Democrats The reputed strength of the L C G I L is mainly in those categories in which the Catholic influence has been strong within the C G I L, e g, among the textile workers, who are mainly women

At the time of breaking away the Christian Democrats had officially about 15 percent of the members of the C G I L with them Their weakness was in part the result of the conservative and antilabor policies of some of the right wing of the party and in part because of the musty odor of piety that pervaded many of their functions

The defection of the Catholics from the CGIL left the other government supporters, the Republicans and the Socialist Workers' party, in an uncomfortable position They strongly opposed the Communist tactics of sabotaging the government's efforts, and at the same time they were not eager to join the Catholics In May, 1949, however, after a vote of their members, the Republicans left the CGIL and were followed within a week by the Socialist Workers' representatives In June these groups formed the FIL *(Federazione Italiana del Lavoro)* under the joint leadership of the two former vice secretaries of the CGIL, Giovanni Canini (PSLI) and Enrico Parri (Republican) This group has also made protestations that it was to be apolitical, but its leaders seem to be active in one or the other of the parties Little is known about the FIL's membership, but it is not believed to be large

Shortly after the departure of Parri and Canini from the CGIL the majority of the top labor leaders of the PSI also left the CGIL These men have had more labor experience than top leaders of the LCGIL or the FIL, with the exception of Canini, who was national secretary of the streetcar workers' union The end of 1949, however, found these men still unaffiliated with either the LCGIL or the FIL

Of course the ideal long-term solution to this problem would be the creation of apolitical unions on the general model of the American unions This, however, does not seem to be in the cards for the present Only three of the present federations can be said to approach the American standards and in each case there is a special reason why the creation of such a union has been possible These atypical unions are those of the port workers, the seamen, and the electrical workers The port workers enjoy a peculiar monopoly described later in dealing with the merchant marine, it makes them quite independent of political pressures and content to follow their able leader Marino de Stefano The seamen have returned to the leadership support of their pre-Fascist and to an extent Fascist leader Giuseppe Giulietti, an old-fashioned labor boss who, like John L Lewis, has gained the fanatical support of his men The electricians are led by an extremely capable labor organizer with pre-Fascist experience, Vasco Cesari Cesari, although personally active in the Socialist Workers' party, separates his political and his labor activities These three unions all nominally remain within the CGIL but are practically autonomous

The determination of wages in Italy is an extremely complex matter, and it is probable that less than 1 percent of Italian workers actually know what their legal wages are In the first place the wage is only a part, frequently a minor part, of the total take-home pay It is supplemented with a cost-of-living bonus, which fluctuates with the rise and fall of the cost of living, usually in such a way that it rises twice as fast with the increase in the cost of living as it falls with the decrease Then there is a family allowance, paid to each

worker in accordance with the number of dependents he has Deducted from the total of these sums are income taxes and often union dues, as well as special taxes shared by employer and employee for various social benefits The result, the take-home pay, has therefore little to do with the theoretical wages And even in those cases in which the worker has seen in the papers during the discussion of some labor dispute what his basic wage is, he will still have to be somewhat of a mathematician to figure out the many small wage increases due him depending on the years of service and the precise type of work he is doing

Like the labor movement, the Italian cooperative movement is split along party lines The largest cooperative league is that of the Communists and their friends This is called the *Lega nazionale delle cooperative*, and is headed by the able Communist deputy Giulio Cerretti The league boasts over 3,000,000 members who counting their immediate families represent over 12,000,000 persons, a fourth of the entire population of the country Affiliation with this organization does not mean, of course, that one is a Communist sympathizer For many of its members the cooperative movement is quite apolitical To others it is the lesser of evils to associate with Communists than to join the Catholic cooperative and associate with priests It is true, however, that with control of this large organization the Communists are in a position to use the movement for political purposes, turning over its meeting places to Communist rallies, giving deserving Communists jobs in the movement, and so forth

The Catholic cooperatives are much smaller and contain about a million and a third members They have been independent ever since liberation and unlike the Catholic labor movement never tried to cooperate with the Marxist cooperatives

## *MINISTRY OF FOREIGN TRADE*

Italy is far from being a self-sufficient country Not only is she lacking in many essentials to her existence but she produces greatly in excess of her domestic needs other articles, which must therefore be sold abroad Foreign trade then becomes vital to her existence, and the establishment of a special ministry endowed with the sole function of controlling and encouraging foreign trade is not unreasonable

The ministry's functions, however, are really two foreign trade and foreign exchange With respect to foreign trade the interest of the ministry is to arrange by treaty or otherwise for the kind of barter agreements which will bring into Italy those materials essential to her and to limit the non-essential importations The foreign-exchange functions concern control over the use of foreign currency on the part of individual Italians

The importance of the routine functions of this ministry pale, however, before the magnitude of its aims with respect to the proposed Franco-Italian

customs union Progress on this agreement has been slow The practical effect of the provisions already in force is certainly not great But if a true economic union can be reached between these two countries (and many persons in authority are optimistic about the final results of the continuing negotiations), then France and Italy together will form an economic bloc of some 80,000,000 persons Progress toward this end is encouraged by many factors such as the essentially complementary qualities of the two economies and has the good will of prominent politicians in both countries

## *MINISTRY OF THE MERCHANT MARINE*

The Ministry of the Merchant Marine enters into international agreements with regard to matters concerning the merchant marine It has control over the ports and over coastal fishing It also administers the subsidies given by the government to certain steamship lines

Among its most interesting functions are those relating to the field of labor Seamen's labor conditions are inspected by representatives of this ministry rather than by the Ministry of Labor With respect to port workers, however, the situation is unique In order to load or unload ships in Italy it is necessary to have a license from the Ministry of the Merchant Marine These licenses are given to members of the various "*compagnie*" which exist in each port Membership in the *compagnie* is strictly limited Whenever there is a vacancy, the remaining members, through their union, suggest the name of the new man whom they want licensed He is often the son or other relative of the man who is retiring Such nominations are almost always approved by the government Thus among this category of workers a system persists that is quite similar to the medieval guild The result is that whereas the port workers of the rest of the world are among the furthest left of the labor groups, the Italian port workers are far to the right of the rest of the labor movement The monopoly they have is virtually unbreakable, for although most of the port work is indeed merely heavy exertion for which a strong back is more helpful than either brains or experience, nevertheless it cannot be carried out effectively unless some of the men are experienced Therefore, if the government should fail to maintain the port workers in their privileged position, they could tie up the ports of Italy in no time by a strike

## *CONCLUSION*

There is less in the Italian government for the United States to emulate than in the governments of Great Britain, France, and Switzerland Most of Italy's governmental forms are derivative Often the originals are found in France, sometimes, as with the Constitutional Court, in the United States In Italy, there are no democratic governmental traditions which are the envy of the American democrat, as there are in Great Britain and Switzerland

From the standpoint of culture, Italy is an old democracy, even the cradle

of democracy, but from a legal point of view she is the youngest democracy in western Europe Through the first years of the postwar period Italy has made remarkable progress in getting back on her feet after a disastrous war Her recovery is due in part to her own efforts and in part to the lavish American aid she has received By our combined efforts this baby republic has been kept alive and strengthened It is too soon yet to say when she will be ready to stand on her own feet, unaided This much is certain, however if the seeds of democracy, once planted and nurtured in the friendly soil of Italy, do not take root there, our hopes for the gradual extension of democratic principles throughout the world and the gradual evolution of a democratic world federation will have received a serious blow And so if we do not find in Italian democracy many institutions and techniques we wish to copy, that government is nevertheless of importance to us as an indication of the feasibility of the extension of the democratic ideal The results are not yet known but the prognosis is positive

Italy is making her contribution to a plan, derivative from our own history and constitutional experience, which is the white hope for peace within Europe That is the United States of Europe Ideas of this sort have been popular in Europe at least since the time of Dante Recently they have been advocated by such statesmen as Aristide Briand in France and Winston Churchill in Great Britain Today most of the best scholars and statesmen in Italy are united in the belief that a United States of Europe is a necessity, and by this they mean not merely a regional League of Nations or a regional United Nations They feel that a union of states is far from sufficient and envisage a union of peoples to operate as does our United States Included among the leaders of this movement in Italy are Luigi Einaudi, Count Carlo Sforza, Ignazio Silone, Ferruccio Parri, Gaetano Salvemini, Piero Calamandrei, and Ernesto Rossi If Italy takes the lead in this movement she truly will have made a significant contribution to the progress of democracy

# *Appendix to Part IV*

TABLE I

| Regions | Provinces | No of Communes | Area in Kilometers | Population April 21, 1936 | Population Est Jan 1, 1949 |
|---|---|---|---|---|---|
| | Alessandria | 183 | 3,564 | 493,698 | 482,000 |
| | Asti | 119 | 1,510 | 245,764 | 230,000 |
| | Cuneo | 247 | 6,913 | 604,638 | 601,000 |
| | Novara | 152 | 3,614 | 395,730 | 411,000 |
| | Torino | 292 | 6,828 | 1,312,324 | 1,395,000 |
| | Vercelli | 166 | 2,996 | 366,146 | 366,000 |
| Piedmont | | 1,159 | 25,425 | 3,418,300 | 3,485,000 |
| Val d'Aosta | | 73 | 3,262 | 83,455 | 92,000 |
| | Bergamo | 228 | 2,759 | 605,810 | 672,000 |
| | Brescia | 187 | 4,749 | 744,571 | 829,000 |
| | Como | 208 | 2,067 | 501,752 | 530,000 |
| | Cremona | 112 | 1,756 | 369,515 | 375,000 |
| | Mantova | 70 | 2,339 | 407,977 | 419,000 |
| | Milano | 245 | 2,758 | 2,175,400 | 2,410,000 |
| | Pavia | 183 | 2,966 | 492,303 | 499,000 |
| | Sondrio | 78 | 3,208 | 142,919 | 150,000 |
| | Varese | 119 | 1,199 | 396,232 | 440,000 |
| Lombardy | | 1,430 | 23,801 | 5,836,479 | 6,324,000 |
| | Bolzano | 91 | 7,085 | 277,720 | 289,000 |
| | Trento | 183 | 6,517 | 391,309 | 403,000 |
| Trentino-Alto Adige | | 274 | 13,602 | 669,029 | 692,000 |
| | Belluno | 69 | 3,685 | 216,333 | 233,000 |
| | Padova | 105 | 2,142 | 668,025 | 711,000 |
| | Rovigo | 51 | 1,804 | 336,807 | 352,000 |
| | Treviso | 94 | 2,477 | 570,566 | 618,000 |
| | Venezia | 43 | 2,457 | 629,137 | 716,000 |
| | Verona | 95 | 3,096 | 585,893 | 638,000 |
| | Vicenza | 122 | 2,722 | 559,375 | 610,000 |
| Veneto | | 579 | 18,383 | 3,566,136 | 3,878,000 |
| | Gorizia | 18 | 469 | 115,252 | 134,000 |
| | Udine | 185 | 7,165 | 721,670 | 791,000 |
| Friuli-Venezia Giulia | | 203 | 7,634 | 836,922 | 925,000 |
| | Genova | 67 | 1,823 | 867,608 | 881,000 |
| | Imperia | 61 | 1,144 | 158,470 | 160,000 |
| | La Spezia | 32 | 885 | 221,634 | 234,000 |
| | Savona | 69 | 1,547 | 219,108 | 234,000 |
| Liguria | | 229 | 5,399 | 1,466,820 | 1,509,000 |

TABLE I—*Continued*

| Regions | Provinces | No of Communes | Area in Kilometers | Population April 21, 1936 | Population Est Jan 1, 1949 |
|---|---|---|---|---|---|
| | Bologna | 60 | 3,702 | 714,705 | 747,000 |
| | Ferrara | 20 | 2,629 | 381,299 | 411,000 |
| | Forlì | 50 | 2,910 | 444,528 | 481,000 |
| | Modena | 46 | 2,690 | 467,355 | 490,000 |
| | Parma | 47 | 3,452 | 381,771 | 396,000 |
| | Piacenza | 47 | 2,584 | 294,648 | 303,000 |
| | Ravenna | 18 | 1,861 | 279,127 | 282,000 |
| | Reggio nell' Emilia | 45 | 2,292 | 375,288 | 390,000 |
| Emilia-Romagna | | 333 | 22,120 | 3,338,721 | 3,500,000 |
| Northern Italy | | 4,280 | 119,626 | 19,215,862 | 20,405,000 |
| | Arezzo | 39 | 3,231 | 319,754 | 330,000 |
| | Firenze | 49 | 3,880 | 853,032 | 899,000 |
| | Grosseto | 24 | 4,501 | 185,801 | 207,000 |
| | Livorno | 19 | 1,220 | 249,468 | 265,000 |
| | Lucca | 35 | 1,772 | 352,205 | 369,000 |
| | Massa-Carrara | 17 | 1,156 | 196,716 | 203,000 |
| | Pisa | 38 | 2,448 | 341,428 | 347,000 |
| | Pistoia | 21 | 964 | 211,150 | 218,000 |
| | Siena | 36 | 3,821 | 268,459 | 273,000 |
| Tuscany | | 278 | 22,993 | 2,978,013 | 3,111,000 |
| | Perugia | 59 | 6,330 | 530,985 | 571,000 |
| | Terni | 31 | 2,140 | 191,559 | 214,000 |
| Umbria | | 90 | 8,470 | 722,544 | 785,000 |
| | Ancona | 48 | 1,938 | 372,229 | 394,000 |
| | Ascoli Piceno | 72 | 2,090 | 303,869 | 328,000 |
| | Macerata | 56 | 2,775 | 290,057 | 303,000 |
| | Pesaro e Urbino | 67 | 2,893 | 311,916 | 331,000 |
| Marche | | 243 | 9,696 | 1,278,071 | 1,356,000 |
| | Frosinone | 89 | 3,239 | 445,607 | 468,000 |
| | Latina | 33 | 2,249 | 237,333 | 263,000 |
| | Rieti | 70 | 2,752 | 174,961 | 183,000 |
| | Roma | 112 | 5,337 | 1,562,843 | 2,047,000 |
| | Viterbo | 59 | 3,602 | 234,180 | 249,000 |
| Lazio | | 363 | 17,179 | 2,654,924 | 3,210,000 |
| Central Italy | | 974 | 58,338 | 7,633,552 | 8,462,000 |
| | Aquila | 106 | 5,032 | 365,716 | 371,000 |
| | Campobasso | 136 | 4,449 | 388,268 | 411,000 |
| | Chieti | 102 | 2,582 | 374,727 | 400,000 |
| | Pescara | 45 | 1,225 | 211,561 | 237,000 |
| | Teramo | 45 | 1,948 | 249,532 | 269,000 |
| Abruzzi e Molise | | 434 | 15,236 | 1,589,804 | 1,688,000 |

TABLE I—*Continued*

| Regions | Provinces | No of Communes | Area in Kilometers | Population April 21, 1936 | Population Est Jan 1, 1949 |
|---|---|---|---|---|---|
| | Avellino | 115 | 2,802 | 446,412 | 494,000 |
| | Benevento | 74 | 2,061 | 303,235 | 333,000 |
| | Caserta | 100 | 2,639 | 506,860 | 573,000 |
| | Napoli | 87 | 1,171 | 1,734,848 | 2,028,000 |
| | Salerno | 157 | 4,922 | 705,277 | 812,000 |
| Campania | | 533 | 13,595 | 3,696,632 | 4,240,000 |
| | Bari | 47 | 5,129 | 1,010,907 | 1,161,000 |
| | Brindisi | 20 | 1,838 | 254,062 | 299,000 |
| | Foggia | 60 | 7,184 | 528,666 | 598,000 |
| | Ionio (Taranto) | 27 | 2,436 | 321,888 | 405,000 |
| | Lecce | 93 | 2,759 | 526,553 | 593,000 |
| Apulia | | 247 | 19,346 | 2,642,076 | 3,056,000 |
| | Matera | 29 | 3,442 | 149,312 | 172,000 |
| | Potenza | 97 | 6,545 | 393,950 | 430,000 |
| Lucania | | 126 | 9,987 | 543,262 | 602,000 |
| | Catanzaro | 155 | 5,232 | 606,364 | 704,000 |
| | Cosenza | 154 | 6,671 | 587,025 | 680,000 |
| | Reggio di Calabria | 93 | 3,192 | 578,262 | 650,000 |
| Calabria | | 402 | 15,095 | 1,771,651 | 2,034,000 |
| Southern Italy | | 1,742 | 73,259 | 10,243,425 | 11,620,000 |
| | Agrigento | 42 | 3,041 | 418,265 | 462,000 |
| | Caltanissetta | 22 | 2,104 | 256,687 | 294,000 |
| | Catania | 53 | 3,552 | 713,131 | 777,000 |
| | Enna | 20 | 2,562 | 218,294 | 239,000 |
| | Messina | 98 | 3,248 | 627,093 | 672,000 |
| | Palermo | 77 | 4,977 | 890,752 | 985,000 |
| | Ragusa | 12 | 1,523 | 223,115 | 245,000 |
| | Siracusa | 19 | 2,200 | 277,572 | 318,000 |
| | Trapani | 20 | 2,500 | 375,169 | 415,000 |
| Sicily | | 363 | 25,707 | 4,000,078 | 4,407,000 |
| | Cagliari | 149 | 9,298 | 507,201 | 628,000 |
| | Nuoro | 99 | 7,272 | 224,643 | 247,000 |
| | Sassari | 74 | 7,520 | 302,362 | 341,000 |
| Sardinia | | 322 | 24,090 | 1,034,206 | 1,216,000 |
| Italian Islands | | 685 | 49,797 | 5,034,284 | 5,623,000 |
| Italy | | 7,681 | 301,020 | 42,127,123 | 46,110,000 |

SOURCE *Compendio Statistico Italiano, 1947-1948* (Rome, 1948)

TABLE 2 Postwar Governments

| | 1st Bonomi Govt — June 18– Dec. 10, 1944 | 2nd Bonomi Govt — Dec 12, 1944– June 19, 1945 | Parri Govt — June 21– Dec 8 1945 | 1st De Gasperi Govt — Dec 10, 1945– July 1, 1946 | 2nd De Gasperi Govt — July 13, 1946– Jan 28 1947 | 3rd De Gasperi Govt — Feb 2– May 31, 1947 | 4th De Gasperi Govt — May 31, 1947– May 23, 1948 | 5th De Gasperi Govt — May 23, 1948– Jan, 1950 | 6th De Gasperi Govt — Feb 3, 1950– |
|---|---|---|---|---|---|---|---|---|---|
| Presidency of the Council | Bonomi, Ivanoe (LD) | Bonomi | Parri (Act) | De Gasperi (CD) | De Gasperi | De Gasperi | De Gasperi | De Gasperi | De Gasperi |
| Foreign Affairs | Bonomi (interim) (Appointed July 20) | De Gasperi (CD) | De Gasperi | De Gasperi | De Gasperi (interim until Oct 18) Nenni (PSIUP) (appointed Oct 18) | Sforza (Rep) | Sforza | Sforza | Sforza |
| Interior | Bonomi (LD) | Bonomi | Parri (Act) | Romita (PSIUP) | De Gasperi | Scelba (CD) | Scelba | Scelba | Scelba |
| Justice | Tupini (CD) | Tupini | Togliatti (Comm) | Togliatti | Gullo, Fausto (Comm) | Gullo Fausto | Grassi (Lib) | Grassi | Piccioni (CD) |
| Finance | Sighenti (Act) | Pesenti (Comm) | Scoccimarro (Comm) | Scoccimarro | Scoccimarro | Campilli (CD) (Ministries of Finance and of Treasury combined Feb 2, 1947) | Pella (CD) (Min of Finance June 6) Einaudi (Lib) (Min of combined Finance and Treasury until June 6) | Vanoni (CD) | Vanoni |
| Treasury | Soleri (Lib) | Soleri | Soleri (died July 22) Ricci (Lib) (appointed July 31) | Corbino (Lib) | Corbino (resigned Sept 18) Bertone (CD) (appointed Sept 16) (sic) | | Del Vecchio (Ind) (Min of Treas) (Ministries separated June 4) | Pella | Pella (Ministries of Treasury and of Budget combined) |
| Budget | | | | | | | Einaudi (Lib) (Ministry established June 4) | | |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Defense (Ministry established Feb 2, 1947, combining former Ministries of War, Navy, and Air) | | | | | | Gasparotto (LD) | Cingolani (CD) (Resigned Dec 15) Facchinetti (Rep) (Appointed Dec 15) | Pacciardi (Rep) | Pacciardi |
| War | Casati (Lib) | Casati | Jacini (CD) | Brosio (Lib) | Facchinetti (Rep) | | | | |
| Navy | De Courten (Ind) | De Courten | De Courten | De Courten | Micheli (CD) | | | | |
| Air | Piacentini (Ind) | Scialoja (Ind) (resigned Jan 14) Gasparotto (LD) (Appointed Jan 14) | Cevolotto (LD) | Cevolotto | Cingolani | | | | |
| Education | De Ruggiero (Act) | Arangio Ruiz (Lib) | Arangio Ruiz | Mole (LD) | Gonella (CD) | Gonella | Gonella | Gonella | Gonella |
| Public Works | Mancini Pietro (PSIUP) | Ruini (LD) | Romita (PSIUP) | Cattani (Lib) | Romita (PSIUP) | Sereni (Comm) | Tupini (CD) | Tupini | Aldisio (CD) |
| Agriculture and Forests | Gullo, Fausto (Comm) | Gullo Fausto | Gullo Fausto | Gullo Fausto | Segni (CD) | Segni | Segni | Segni | Segni |
| Communications (Divided into Ministries of Transportation and of Posts and Telegraphs Dec 12 1944) | Cerabona (LD)* | | | | | | | | |
| Transportation | | Cerabona (LD) | La Malfa (Act) | Lombardi, Riccardo (Act) | Ferrari (Comm) | Ferrari | Corbellini (Ind) | Corbellini | D'Aragona (PSLI) |
| Posts and Telegraphs | | Cevolotto (LD) | Scelba (CD) | Scelba | Scelba | Cacciatore (PSIUP) | Merlin, Umberto (CD) (Resigned Dec 15) D'Aragona (PSLI) (Appointed Dec 15) | Jervolino (CD) | Spataro (CD) |

TABLE 2 Postwar Governments

| | 1st Bonomi Govt — June 18–Dec 10, 1944 | 2nd Bonomi Govt — Dec 12, 1944–June 19, 1945 | Parri Govt — June 21–Dec 8, 1945 | 1st De Gasperi Govt — Dec 10 1945–July 1, 1946 | 2nd De Gasperi Govt — July 13 1946–Jan 28, 1947 | 3rd De Gasperi Govt — Feb 2–May 31, 1947 | 4th De Gasperi Govt — May 31, 1947–May 23, 1948 | 5th De Gasperi Govt — May 23 1948–Jan , 1950 | 6th De Gasperi Govt — Feb 3 1950– |
|---|---|---|---|---|---|---|---|---|---|
| Industry, Commerce, and Labor (Divided into 2 ministries, June 21 1945) | Gronchi (CD) | Gronchi | | | | | | | |
| Industry and Commerce | | | Gronchi (CD) | Gronchi | Morandi (PSIUP) | Morandi (PSI) | Togni (CD) (Left Ministry of Ind and Comm Dec 15) Tremelloni (PSLI) (Appointed Dec 15) | Lombardo, Ivan Matteo (SU) | Togni (CD) |
| Labor and Social Security | | | Barbareschi (PSIUP) | Barbareschi | D'Aragona (PSIUP) | Romita (PSI) | Fanfani (CD) | Fanfani | Marazza (CD) |
| Foreign Trade (Established Dec 22, 1945) | | | | La Malfa (Act ) (In office Jan 9–Feb 20, 1946) Bracci (Act ) (Appointed Feb 20) | Campilli (CD) | Vanoni (CD) | Merzagora (Ind ) | Merzagora | Lombardo, Ivan Matteo (PSLI) |
| Merchant Marine (Established July 13, 1946) | | | | | Aldisio (CD) | Aldisio | Cappa (CD) | Saragat (PSLI) | Simonini (PSLI) |
| Ministers Without Portfolio | Cianca (Act ) Croce (Lib ) (Resigned July 27) De Gasperi (CD) Ruini (LD) Saragat (PSIUP) Sforza (Rep ) Togliatti (Comm ) Carandini (Lib ) (Minister July 27–Oct 25) | Rodino (CD) Togliatti (Comm ) Brosio (Lib ) | Brosio (Lib ) (Until Aug 17, 1945) Nenni (PSIUP) (Until Aug 12, 1945) | Lussu (Act ) (Resigned Feb 20) Cianca (Act ) (Appointed Feb 20) | Nenni (PSIUP) Macrelli (Rep ) | | Saragat (PSLI) Pacciardi (Rep ) Togni (CD) (Appointed Min with out Portfolio Dec 15, 1947) | Saragat Piccioni (CD) Porzio (Ind ) Tremelloni (PSLI) Giovannini (Lib ) | |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Occupied Italy (Ministry lasted Dec 12, 1944– July 5, 1945) | | Scoccimarro (Comm ) | | | | | | | |
| National Consulta (Ministry lasted July 31, 1945– Dec 22, 1945) | | | Brosio (Lib ) | Lussu (Act ) | | | | | |
| Constitutional Assembly (Ministry lasted July 31, 1945– Aug 2, 1946) | | | Nenni (PSIUP) | Nenni | Nenni | | | | |
| Reconstruction (Ministry lasted June 21, 1945– Dec 22, 1945) | | | [illegible] (LD) | La Malfa (Act ) | | | | | |
| Food (Ministry [illegible], 1945) | | | Mole (LD) | | | | | | |
| Postwar Aid (Ministry lasted June 21, 1945– Feb 14, 1947) | | | Lussu (Act ) | Gasparotto (LD) | Sereni (Comm ) | | | | |

Key to abbreviations of names of parties

| | | | |
|---|---|---|---|
| Act | Action | PSI | Socialist (left wing, after split) |
| CD | Christian Democrat | PSIUP | Socialist (before split) |
| Comm | Communist | PSLI | Socialist Workers' Party |
| Ind | Independent | Rep | Republican |
| LD | Labor Democrat | SU | Socialist Unity (third division of Socialists) |
| Lib | Liberal | | |

TABLE 3 National Elections

| | 1946 Constitutional Assembly | 1948 Chamber of Deputies | 1948 Senate |
|---|---|---|---|
| Communists | 104 | 132 | 69 |
| Socialists (P S I U P) | 115[a] | — | — |
| Socialists (P S I) | — | 50 | 41 |
| Socialists (P S L I) | — | 33 | 23 |
| Action party | 7 | — | — |
| Republicans | 25[b] | 10 | 13 |
| Christian Democrats | 207 | 305 | 153 |
| *Uomo qualunque* | 30 | —[c] | — |
| Liberal coalition | 41 | 15 | 9 |
| Monarchist coalition | 16 | 14 | —[d] |
| M S I | — | 6 | — |
| Others | 11 | 7 | 37[e] |
| Total | 556 | 57 | 345[f] |

[a] After party split up in 1947 somewhat over half joined P S L I, the stayed in P S I

[b] Including two deputies (Parri and La Malfa) elected on a Democratic Republican Concentration who joined the Republicans shortly after election

[c] In Liberal coalition

[d] Included among "Others

[e] Including 28 right of center and 9 left of center

[f] Since the Senate first met three of the senators appointed by the Constitutional Assembly have died (one Communist, one Christian Democrat, one P S I), and so by January 1 1949, the total was 342

# *Constitution of the Italian Republic*

The Provisional Head of the State

HAVING SEEN the resolution of the Constituent Assembly which, in the session of December 22, 1947, approved the Constitution of the Italian Republic,

HAVING SEEN the XVIII final provision of the Constitution,

*Promulgates* the Constitution of the Italian Republic in the following text

## FUNDAMENTAL PRINCIPLES

### ARTICLE 1

Italy is a democratic Republic founded on labor

Sovereignty belongs to the people, who exercise it within the forms and limits of the Constitution

### ARTICLE 2

The Republic recognizes and guarantees the inviolable rights of man, whether as an individual or in social groups through which his personality develops, and requires the fulfilment of inalienable duties of political, economic, and social solidarity

### ARTICLE 3

All citizens have equal social dignity and are equal before the law, without distinction of sex, of race, of language, of religion, of political opinion, of personal and social condition

It is the task of the Republic to remove the obstacles of an economic and social order which, limiting in fact the liberty and equality of citizens, prevent the full development of the human personality and the effective participation by all workers in the political, economic, and social organization of the country

### ARTICLE 4

The Republic recognizes the right of all citizens to work and promotes the conditions which render this right effective

Every citizen has the duty to develop, according to his own capabilities and his own choice, an activity or function which contributes to the material or spiritual progress of society

ARTICLE 5

The Republic, one and indivisible, recognizes and promotes local autonomy, it gives effect to the most ample administrative decentralization in the services which depend on the state, it adjusts the principles and the methods of its legislation to the requirements of autonomy and decentralization

ARTICLE 6

The Republic protects linguistic minorities with appropriate norms

ARTICLE 7

The state and the Catholic Church are, each in its own order, independent and sovereign

Their relationships are regulated by the Lateran Pacts Modifications of the pacts, which have been accepted by the two parties, do not require the procedure of constitutional amendment

ARTICLE 8

All religious confessions are equally free before the law

Religious confessions other than the Catholic have the right to organize according to their own statutes, in so far as they do not conflict with the Italian juridical order

Their relationships with the state are regulated by law on the basis of agreements with the appropriate representatives

ARTICLE 9

The Republic promotes the development of culture and scientific and technical research

It protects the scenic beauty and the historic and artistic patrimony of the nation

ARTICLE 10

The Italian juridical order conforms to the generally recognized norms of international law

The juridical condition of the foreigner is regulated by law in conformity with international norms and treaties

The foreigner who in his own country is prevented from effectively exercising the democratic liberties guaranteed by the Italian Constitution has the right of asylum under conditions established by law

Extradition of the foreigner for political offenses is not permitted

ARTICLE 11

Italy repudiates war as an instrument of offensive action against the liberty of other peoples and as a means for the resolution of international controversies, it consents, on conditions of parity with other states, to limitations of sovereignty necessary to an order for assuring peace and justice among

the nations, it promotes and favors international organizations directed toward that end

ARTICLE 12

The flag of the Republic is the Italian tricolor green, white, and red, in three vertical bands of equal dimensions

## PART I RIGHTS AND DUTIES OF CITIZENS

### *Title I Civil Relations*

ARTICLE 13

Personal liberty is inviolable

No form of arrest, inspection, or personal search is admitted nor any other restriction whatsoever of personal liberty, except by warrant of judicial authority and only in cases and modes provided by law

In exceptional cases of necessity and urgency, indicated positively by law, the police authority may adopt provisional measures which must within forty-eight hours be communicated to the judicial authority and, if this authority does not within the succeeding forty-eight hours validate them, they are understood to be revoked, and they remain without any effect

Any physical or moral violence to persons who are in any way subject to restrictions of liberty is punished

The law establishes the maximum limits of preventive imprisonment

ARTICLE 14

The domicile is inviolable

Inspections or searches or distraints cannot be executed except in cases and according to methods established by law and in accordance with the guarantee prescribed for the protection of personal liberty

Verifications and inspections for reasons of public health and safety or for economic and fiscal purposes are regulated by special laws

ARTICLE 15

Liberty and secrecy of correspondence and of every other form of communication are inviolable

Limitation upon them may take place only by means of a warrant of the judicial authority stating the reasons and within the guarantees established by law

ARTICLE 16

Every citizen may move and travel freely in any part whatsoever of the national territory, except for generally applicable limitations which the law establishes for reasons of health or security No restriction may be determined by political reasons

Every citizen is free to leave the territory of the Republic and to return to it, subject only to legal obligations

ARTICLE 17

Citizens have the right to assemble peaceably and without arms

Notice is not required for meetings even in [private] places open to the public For meetings in public places, notice shall be given to the authorities who may forbid them only for well-established reasons of public security or safety

ARTICLE 18

Citizens have the right to meet freely, without authorization, for whatever purposes are not forbidden to individuals by the penal laws

Secret associations are prohibited, and those which pursue even indirectly military aims by means of organizations of military character

ARTICLE 19

All have the right freely to profess their own religious faith in any form whatsoever, individual or collective, to propagate it and to conduct worship in private or in public, provided this does not involve rites contrary to morality

ARTICLE 20

The ecclesiastical character and religious purpose or the purpose of worship of an association or institution may not be the cause of special legislative restrictions or of special fiscal burdens upon its constitution, its legal capacity, or any form of its activity

ARTICLE 21

Everyone has the right freely to manifest his own thought by word, by writing, and by every other means of dissemination

The press may not be subjected to authorization or censure

A distraint may be exercised only by warrant of judicial authority with statement of reasons in case of crimes, for which the press law expressly authorizes it, or in case of violation of the norms which the law itself prescribes for those designated as responsible

In such cases, when there is absolute urgency and opportune intervention of the judicial authority is not possible, a distraint on the periodical press may be executed by police agents of the courts These must immediately, and in any case within not more than twenty-four hours, present charges before the courts If the judicial authority does not sustain the charge within the succeeding twenty-four-hour period, the distraint is understood to be revoked and without effect

The law may provide, with norms of a general character, that the means by which the periodical press is financed be made known

Printed publications, entertainments, and all other manifestations contrary

to good morals are prohibited The law establishes provisions adequate to prevent and to repress violations

ARTICLE 22

No one may be deprived for political reasons of legal capacity, of citizenship, or of his name

ARTICLE 23

No forced loan may be imposed on person or estate except on the basis of law

ARTICLE 24

Everyone may act at law for the protection of his own rights and legitimate interests

The right of defense is inviolable at every stage and level of procedure

The poor are assured, by appropriate institutions, of the means of action and defense before any court

The law determines the conditions and the methods of reparation for judicial errors

ARTICLE 25

No one may be removed from his natural judge as established in advance by law

No one may be punished except by virtue of a law in force before commission of the act

No one may be subjected to police measures except in cases prescribed by law

ARTICLE 26

The extradition of a citizen may be granted only when it is expressly prescribed by international conventions

In no case may it be granted for political offenses

ARTICLE 27

Penal responsibility is personal

The accused is not considered guilty until final conviction

Penalties may not consist of treatment contrary to humane feeling and must be directed toward the reeducation of the condemned

Capital punishment is not permitted except in cases prescribed by military law of war

ARTICLE 28

In accordance with the penal, civil, and administrative laws, the officials and agents of the state and of public bodies are directly responsible for acts committed in violation of rights In such cases the civil responsibility extends to the state and to public bodies

## *Title II Ethical-Social Relations*

ARTICLE 29

The Republic recognizes the rights of the family as a natural society based on marriage

Marriage is founded on the moral and juridical equality of the parties, within the limitations established by law to guarantee the unity of the family

ARTICLE 30

It is the duty of parents to support, instruct, and educate their children, even if born out of wedlock

In case of incapacity of parents, the law provides who shall acquit their tasks

The law assures to children born out of wedlock every juridical and social protection compatible with the rights of the members of the legitimate family

The law lays down the norms and the limits for the investigation of paternity

ARTICLE 31

The Republic, by economic measures and other provisions, facilitates the development of the family and the fulfilment of the tasks pertinent thereto, with particular regard to large families

It protects maternity, infancy, and youth, favoring the institutions necessary for this aim

ARTICLE 32

The Republic protects health as a fundamental right of the individual and as an interest of society and guarantees free care to the indigent

No one may be obliged to undergo a given treatment for illness except by provision of the law In no case may the law violate the limits imposed by respect for the human personality

ARTICLE 33

The freedom of art and science and freedom of instruction in them is affirmed

The Republic lays down general standards for instruction and institutes state schools of all orders and grades

Organized groups and private persons have the right to establish schools and educational institutions without burden to the state

The law, in fixing the rights and obligations of non-state schools which request parity, must assure full liberty to them and must assure to their students a scholastic treatment equipollent to that of students of the state schools

A state examination is required for admission to the various orders and grades of school, or for passing any of them, and in order to qualify for practice of a profession

Institutions of higher learning, universities and academies, have the right to give themselves autonomous regulations within limits established by the laws of the state

ARTICLE 34

The school is open to all

Elementary instruction, imparted for at least eight years, is obligatory and gratuitous

Those of capacity and merit, even if without means, have the right to attain the highest grades of study

The Republic renders this right effective by means of scholarships, allowances to families, and other aids which must be assigned by competition

*Title III Economic Relations*

ARTICLE 35

The Republic protects labor in all its forms and applications

It looks after the development and the professional advancement of workers

It promotes and favors international agreements and organizations designed to affirm and regulate the rights of labor

It recognizes freedom of emigration, except for obligations established by law in the general interest, and it protects Italian labor abroad

ARTICLE 36

The worker has the right to a compensation proportionate to the quantity and quality of his labor and in any case sufficient to assure him and his family a free and dignified existence

The maximum length of the work day is established by law

The worker has the right to a weekly rest and to annual paid vacations and may not renounce them

ARTICLE 37

The working woman has the same right and, for equal labor, receives the same compensation as the working man The conditions of labor must permit the fulfilment of her essential functions in the family and assure to mother and child a special adequate protection

The law establishes the minimum age for paid labor

The Republic protects the labor of minors with special norms and guarantees to them, for equal work, the right to equal wages

ARTICLE 38

Every citizen unable to work and deprived of the means necessary to live has the right to support and to social assistance

Laborers have the right to provisions and assured means adequate to their living requirements in case of accident, sickness, disability and old age, and involuntary unemployment

Those unable to work and the disabled have the right to education and to a beginning in a profession

Organs and institutions established or assimilated by the state provide for the fulfilment of the tasks contemplated in this article

The freedom of private charity is affirmed

ARTICLE 39

The organization of trade unions is free

No other obligation may be imposed on a trade union except that of registering at local or central public offices, in accordance with the norms established by law

A condition for registration is that the statutes of the unions sanction an internal organization on a democratic basis

Registered trade unions have legal personality They may, being represented as units in proportion to their membership, stipulate collective labor contracts with obligatory efficacy for all those members of the category of labor to which the contract refers

ARTICLE 40

The right to strike is exercised within the sphere of the laws which regulate it

ARTICLE 41

Private economic initiative is free

This may not develop in conflict with social utility or in such a manner as to cause damage to security, to liberty, to human dignity

The law determines the appropriate programs and controls in order that public and private economic activity may be directed and coordinated toward social ends

ARTICLE 42

Property is public or private Economic goods belong to the state, to organized groups, or to individuals

Private property is recognized and guaranteed by law, which determines the methods of its acquisition and enjoyment and the limitations designed to assure its social functioning and render it accessible to all

In cases prescribed by law, and on the basis of compensation, private property may be expropriated for reasons of general interest

The law establishes the norms and limits of legitimate and testamentary succession and the rights of the state in inheritance

ARTICLE 43

For the purpose of general utility the law may originally reserve or may transfer, by means of expropriation and with indemnity, to the state, to public bodies, or to communities of workers or of utilizers, specified enterprises or categories of enterprises which relate to essential public services

or to sources of energy or to situations of monopoly and which have a character of preeminent general interest

ARTICLE 44

For the purpose of securing a rational exploitation of the soil and of establishing just social relationships, the law imposes obligations and restrictions on private property in land, it fixes limits to its extension according to the region and agrarian zone, it promotes and requires reclamation, the transformation of latifundia, and the reconstitution of productive units, it aids the small and medium-scale proprietor

The law frames provisions in favor of the mountainous zones

ARTICLE 45

The Republic recognizes the social function of cooperation conducted on the basis of mutuality and without purposes of speculation for private gain The law promotes and favors its extension by suitable means and assures its character and permanence, subject to appropriate controls

The law provides for the protection and development of artisanship

ARTICLE 46

With a view to the economic and social advancement of labor and in harmony with the requirements of production, the Republic recognizes the right of workers to collaborate, in ways and within limits established by law, in the management of business enterprises

ARTICLE 47

The Republic encourages and protects saving in all its forms, it disciplines, coordinates, and controls the administration of credit

It favors the direction of popular savings to residential property, to property in productive land, directly cultivated, and to direct and indirect investment in the great productive enterprises of the country

## *Title IV Political Relationships*

ARTICLE 48

All citizens, men and women, who have reached the age of majority, are electors

The vote is personal and equal, free and secret Its exercise is a civic duty

The right to vote may not be limited except for civil incapacity or by reason of irrevocably penal sentence or in cases of moral unworthiness indicated by law

ARTICLE 49

All citizens have the right to associate freely in political parties in order to compete by democratic methods to determine national policy

ARTICLE 50

All citizens may submit petitions to the Chambers in order to request legislative provisions or to explain general needs

ARTICLE 51

All citizens of either sex may hold public offices and elective positions on the basis of equality, according to requirements established by law

The law may, for admission to public offices and to elective positions, equalize the status of Italians not belonging to the Republic with that of citizens

Whoever is called to elective public functions has the right to devote to them the time necessary for their performance and to retain his job

ARTICLE 52

Defense of the fatherland is a sacred duty of the citizen

Military service is obligatory within the limits and procedures established by law Its fulfilment does not prejudice the job of the citizen or his exercise of political rights

The organization of the armed forces is informed by the democratic spirit of the Republic

ARTICLE 53

All are bound to contribute to public expenses according to their ability to pay

The system of taxation conforms to the criteria of progressivity

ARTICLE 54

All citizens are in duty bound to be faithful to the Republic and to observe its Constitution and laws

Citizens to whom public offices are entrusted are bound to perform their official duties with discipline and honor, swearing an oath in cases established by law

## PART 2 THE ORGANIZATION OF THE REPUBLIC

### *Title I The Parliament*

### Section I The Chambers

ARTICLE 55

The Parliament is composed of the Chamber of Deputies and of the Senate of the Republic

The Parliament assembles in joint session of the members of the two Chambers only in cases established by the Constitution.

ARTICLE 56

The Chamber of Deputies is elected by universal and direct suffrage, in the proportion of one deputy for 80,000 inhabitants or for fractions greater than 40,000

Eligible as deputies are all electors who on the day of election have reached their twenty-fifth birthday

ARTICLE 57

The Senate of the Republic is elected on a regional basis

To each Region is attributed one senator for 200,000 inhabitants or for a fraction greater than 100,000

No Region may have a number of senators less than six The Valle d' Aosta has a single senator

ARTICLE 58

The senators are elected by means of universal and direct suffrage by the electors who have attained their twenty-fifth birthday

Those electors are eligible as senators who have attained their fortieth birthday

ARTICLE 59

Whoever has been President of the Republic is by right senator for life unless he renounces the right

The President of the Republic may nominate as senators for life citizens who have brought renown to the fatherland by merits of the highest order in the social, scientific, artistic, or literary fields

ARTICLE 60

The Chamber of Deputies is elected for five years, the Senate of the Republic for six

The term of either Chamber may not be extended except by law and only in case of war

ARTICLE 61

The elections of new Chambers take place within seventy days of the end of the term of the preceding ones The first meeting takes place within not less than twenty days of the elections

The powers of the preceding Chambers are extended until the new Chambers have met

ARTICLE 62

The Chambers meet by right on the first day of February and of October that is not a holiday

Each Chamber may be exceptionally convoked on the initiative of its President or that of the President of the Republic or on that of one third of its members

When one Chamber meets in exceptional session, the other is also by right convoked

ARTICLE 63

Each Chamber elects from among its members its President and Presidential Bureau

When the Parliament meets in joint session, the President and Presidential Bureau are those of the Chamber of Deputies

ARTICLE 64

Each Chamber adopts its own regulations by absolute majority of its members

The sessions are public, nevertheless each of the two Chambers and the Parliament of the united Chambers may determine to meet in secret session

The decisions of each Chamber and of the Parliament are not valid if there is not present an absolute majority of their members, and if not adopted by a majority of those present, except when the Constitution prescribes a special majority

The members of the Government, even if not members of the Chambers, have the right and, upon request, the obligation to attend the sessions They must be heard whenever they request it

ARTICLE 65

The law determines cases of ineligibility for, and of incompatibility with, the office of deputy or that of senator

No one may at the same time belong to both Chambers

ARTICLE 66

Each Chamber judges the credentials of its members and unanticipated causes of ineligibility or incompatibility

ARTICLE 67

Every member of Parliament represents the nation and exercises his function without restraint of mandate

ARTICLE 68

The members of Parliament may not be prosecuted for opinions expressed or votes cast in the exercise of their functions

No member of Parliament may, without authorization of the Chamber to which he belongs, be subjected to penal proceedings, nor may he be arrested, or otherwise deprived of personal liberty, or subjected to personal or domiciliary search, unless he be taken in the act of committing a crime for which the warrant or the order to seize is obligatory

Like authorization is required for the arrest or for holding under arrest a member of Parliament in execution even of an irrevocable sentence

ARTICLE 69

The members of Parliament receive a compensation established by law

## Section II The Enactment of Laws

ARTICLE 70

The legislative function is exercised collectively by the two Chambers

ARTICLE 71

The initiative in legislation appertains to the Government, to each member of the Chambers, and to the organs and bodies on which it may be conferred by constitutional enactment

The people exercise initiative in legislation by proposal of a bill drafted in the form of articles and supported by at least 50,000 electors

ARTICLE 72

Every bill, having been presented to one Chamber, is, in accordance with its rules and regulations, examined by a committee and then by the Chamber itself, which approves it article by article and then by final vote

The regulations will establish a shortened procedure for bills of declared urgency

The regulations may also provide in what cases and what forms the examination and approval of bills are to be referred to committees, including standing committees composed to reflect the proportions of the parliamentary groups Furthermore in such cases, until the moment of definitive approval, a bill is to be submitted to the Chamber, if the Government, or one tenth of the members of the Chamber, or one fifth of the members of the committee, request that it be discussed and voted upon by the Chamber itself, or else that it be considered for final approval by roll call The regulations shall determine the forms of publicity to be given to the labors of the committees

Normal procedure for examination and direct approval by the Chamber is always adopted for bills pertaining to the Constitution and the electorate, and for those delegating legislative power, authorizing the ratification of international treaties, or approving the budget or expenditures

ARTICLE 73

The laws are promulgated by the President of the Republic within one month of their approval

If the Chambers, each by an absolute majority of its own members, declare the urgency of a law, it is promulgated within the time which that law itself establishes

The laws are published immediately after promulgation and take effect on the fifteenth day following publication, except when the laws themselves establish a different period

ARTICLE 74

The President of the Republic, before promulgating a law, may by means of a message stating the reasons request a new decision of the Chambers

If the Chambers again approve a law, it must be promulgated

ARTICLE 75

Popular *referendum* is established to determine the abrogation, total or partial, of a law, or of an act having the force of law, when it is demanded by 500,000 electors or by five regional Councils

The *referendum* is not permitted for tax laws or laws on the budget, for laws of amnesty and of pardon, or for laws authorizing the ratification of international treaties

All citizens who are eligible as electors of the Chamber of Deputies have the right to participate in the *referendum*

The proposal submitted to *referendum* is approved if the majority of those eligible have participated in the voting, and if it has received a majority of votes validly cast

The law determines the methods and procedures of carrying the *referendum* into effect

ARTICLE 76

The exercise of the legislative function may not be delegated to the Government except after determination of principles and of governing criteria and only for a limited time and for defined objectives

ARTICLE 77

The Government may not, without delegation of power by the Chambers, issue decrees which have the force of ordinary law

When, in extraordinary cases of necessity and urgency, the Government on its own responsibility adopts provisional measures having the force of law, it must on the same day present them for conversion into law by the Chambers which, even if dissolved, are convoked for the purpose and assemble within five days

The decrees lose effect as of the date of issue if not converted into law within sixty days of their publication The Chambers may nevertheless regulate by law juridical relationships arising from decrees not converted into law

ARTICLE 78

The Chambers decide upon the state of war and confer upon the Government the necessary powers

ARTICLE 79

Amnesty and pardon are conceded by the President of the Republic on the basis of laws enacted by the Chambers delegating such power

They may not apply to crimes committed subsequently to the proposal of delegation

ARTICLE 80

The Chambers authorize by law the ratification of international treaties which are of a political nature, or which provide for arbitration or judicial regulation, or which involve changes of the territory, or charges on the finances, or modifications of the laws

ARTICLE 81

The Chambers approve each year the budget and the account of expenditures presented by the Government

Provisional exercise of the budget may not be conceded except by law and for periods which total not more than four months

After approval of the budget by law, new taxes and new expenditures may not be established

Every other law which involves new or greater expenditures must indicate the means to meet them

ARTICLE 82

Each Chamber may provide for investigations of matters of public interest

For this purpose it nominates from among its members a committee formed to reflect the proportions of its various groups The committee of investigation proceeds in its inquiries and in its examinations with the same powers and subject to the same limitations as apply to the judicial authority

## *Title II The President of the Republic*

ARTICLE 83

The President of the Republic is elected by Parliament in joint session of its members

Three delegates for each Region, elected by the Regional Council in such manner as to assure representation of minorities, participate in the election The Valle d' Aosta has a single delegate

The election of the President of the Republic takes place by secret ballot and requires a two-thirds majority of the assembly After the third ballot an absolute majority is sufficient

ARTICLE 84

Any citizen may be elected President of the Republic who has reached his fiftieth birthday and who enjoys civil and political rights

The office of President of the Republic cannot be held contemporaneously with any other office whatsoever

The salary and allowances of the President are determined by law

ARTICLE 85

The President of the Republic is elected for seven years

Thirty days before the expiration of the President's term of office, the President of the Chamber of Deputies convokes the Parliament in joint session, together with the regional delegates, to elect the new President of the Republic

If the Chambers are dissolved, or if their term has less than three months to run, the election takes place within fifteen days from the meeting of the new Chambers In the meantime the powers of the President in office are extended

ARTICLE 86

The functions of the President of the Republic, in each case in which he cannot perform them, are exercised by the President of the Senate

In case of permanent disability, death, or resignation of the President of the Republic, the President of the Chamber of Deputies announces the election of a new President of the Republic within fifteen days, except for the longer period provided for when the Chambers are dissolved or when their term has less than three months to run

ARTICLE 87

The President of the Republic is the head of the state and represents the national unity

He may send messages to the Chambers

He announces the elections of new Chambers and signifies the date of their first meetings

He authorizes the presentation to the Chambers of bills initiated by the Government

He promulgates the laws, and he issues decrees having the force of law, and regulations

He announces the popular *referendum* in cases provided for by the Constitution

He nominates, in the cases indicated by law, the officials of the state

He accredits and receives diplomatic representatives, ratifies international treaties after securing, when it is needed, the authorization of the Chambers

He has command of the Armed Forces, presides over the Supreme Council of Defense constituted according to law, declares the state of war on decision of the Chambers

He presides over the Superior Council of the Judiciary

He may concede pardons and commute penalties

He confers the decorations of the Republic

ARTICLE 88

The President of the Republic may, having heard their respective Presidents, dissolve both Chambers or only one of them

He may not exercise such a power within the last six months of his term

ARTICLE 89

No act of the President of the Republic is valid unless countersigned by the Ministers proposing it, who assume responsibility for it

Acts which have the force of legislation and other acts indicated by law are countersigned also by the President of the Council of Ministers

ARTICLE 90

The President of the Republic is not responsible for acts performed while exercising his functions, except high treason or offenses against the Constitution

In such cases he is impeached by Parliament in joint session, by absolute majority of its members

ARTICLE 91

The President of the Republic, before taking office, swears, in the presence of Parliament in joint session, an oath of fidelity to the Republic and of observance of the Constitution

## *Title III The Government*

### Section I The Council of Ministers

ARTICLE 92

The Government of the Republic is composed of the President of the Council and of the Ministers who collectively constitute the Council of Ministers

The President of the Republic nominates the President of the Council of Ministers and on his proposal nominates the Ministers

ARTICLE 93

The President of the Council of Ministers and the Ministers, before assuming their functions, swear an oath in the hands of the President of the Republic

ARTICLE 94

The Government must have the confidence of the two Chambers

Each Chamber accords or revokes confidence by means of a motion stating the reasons and voted by roll call

Within ten days of its formation the Government presents itself to the Chambers to obtain their confidence

An opposing vote by one or by both of the Chambers on a motion of the Government does not carry with it the obligation to resign

The motion of lack of confidence must be signed by at least one tenth of the members of the Chamber and may not be placed in discussion until three days after its presentation

ARTICLE 95

The President of the Council of Ministers directs the general policy of the Government and is responsible for it He maintains unity of political and administrative direction, and promotes and coordinates the activity of the Ministers

The Ministers are responsible collectively for the acts of the Council of Ministers, and individually for the acts of their respective departments

The law provides for the organization of the presidency of the Council and it determines the number, attributes, and organization of the ministries

ARTICLE 96

The President of the Council of Ministers and the Ministers are impeached by Parliament in joint session for crimes committed in the exercise of their functions.

## Section II Public Administration

ARTICLE 97

The public offices are organized by legislation in such fashion as to assure effectiveness and impartiality of administration

The spheres of competence, attributes, and appropriate responsibilities of officials are determined in the organization of the offices

Admission to positions in the public administration is by means of competition except in cases established by law

ARTICLE 98

Public employees are exclusively at the service of the Nation

If they are members of Parliament they may not receive promotion except by reason of seniority

Limitations of the right of affiliation with political parties may be established by law as regards judges, professional military officers in active service, police functionaries and agents, and diplomatic and consular representatives abroad

## Section III Auxiliary Organs

ARTICLE 99

The National Council of Economy and Labor is composed, in accordance with methods established by law, of experts and of representatives of the

productive categories, in such a way as to take account of their numerical and qualitative importance

It is a consultative organ of the Chambers and of the Government for the questions and in accordance with the functions attributed to it by law It can initiate legislation and contribute to the elaboration of economic and social legislation according to principles and within limitations established by law

ARTICLE 100

The Council of State is an organ of juridical-administrative advice and an organ for safeguarding justice in administration

The Court of Accounts exercises a preventive control to assure the legitimacy of acts of the Government, and also audits the administration of the budget It participates, in cases and under procedures established by law, in control over the financial administration of bodies to which the state regularly contributes It reports directly to the Chambers on the results of the audit so executed

The independence from the Government of the two bodies and of their members is provided for by law

## *Title IV The Judiciary*

### Section I Jurisdictional Organization

ARTICLE 101

Justice is administered in the name of the people

The judges are subject only to the law

ARTICLE 102

The judicial function is exercised by regular judges instituted and regulated by the norms governing the judicial order

Extraordinary judges or special judges may not be created There may only be instituted, for stipulated subjects, specialized sections attached to the regular judicial organs, and in these sections may participate qualified citizens not drawn from the magistracy

The law regulates the cases and forms governing the direct participation of the people in the administration of justice

ARTICLE 103

The Council of State and the other organs of administrative justice have jurisdiction for the protection of legitimate interests as against the public administration and, in particular subjects indicated by law, for the protection also of subjective rights

The Court of Accounts has jurisdiction in matters of public accounting and in other matters specified by law

Military courts in time of war have jurisdiction established by law In time

of peace they have jurisdiction only for military crimes committed by members of the Armed Forces

ARTICLE 104

The judiciary constitutes an autonomous order independent of every other power

The Superior Council of the Judiciary is presided over by the President of the Republic

The first president and the procurator general of the Court of Cassation are members ex officio

The other members are elected two thirds by all the regular judges from those belonging to the various categories, one third by Parliament in joint session from the regular university professors of law and lawyers who have had fifteen years of practice

The Council elects a vice president from the members chosen by Parliament

The elective members of the Council remain in office four years and are not immediately reeligible

So long as they are in office they may not be inscribed in the professional registers nor belong to Parliament or to a Regional Council

ARTICLE 105

In accordance with the norms of the judicial order, the following matters pertain to the Superior Council of the Judiciary appointments, assignments and transfers, promotions, and disciplinary measures in regard to judges

ARTICLE 106

The nomination of judges takes place by competition

The law on the judicial organization may permit the nomination even by election of honorary judges for all functions attributed to individual judges

Upon designation by the Superior Council of the Judiciary there may be called to the office of Counselor of Cassation, on the ground of outstanding merit, regular university professors of law and lawyers who have had fifteen years of practice and who are inscribed in the special registers of those practicing in the superior courts

ARTICLE 107

Judges are irremovable A judge may not be exempted or suspended from service or assigned to another seat or function except as a result of decision by the Superior Council of the Judiciary, adopted either for just cause and with the guaranty of defense as established by the judicial organization, or with the consent of the judge himself

The Minister of Justice has authority to institute disciplinary action

Judges differ only in diversity of function

The Public Prosecutor enjoys for his office the guaranties established according to the norms of the judicial order

ARTICLE 108

The norms governing the judicial order and each magistracy are established by law

The law assures the independence of judges of special jurisdictions, of the Public Prosecutors attached to such courts, and of outsiders who participate in the administration of justice

ARTICLE 109

The judicial authority has the judicial police directly at its disposal

ARTICLE 110

Except as regards the competence of the Superior Council of the Judiciary, the organization and functioning of the services relating to justice pertain to the Minister of Justice

### Section II Norms Regarding Jurisdiction

ARTICLE 111

All measures pertaining to jurisdiction must be accompanied by a statement of reasons

Appeal for violation of law is always admitted from sentences and from measures infringing personal liberty which are pronounced or taken by regular or special courts This norm may be departed from only in the case of sentences of military courts in time of war

From decisions of the Council of State and of the Court of Accounts, appeal is admitted only on grounds of jurisdiction

ARTICLE 112

The Public Prosecutor has the obligation of administering penal action

ARTICLE 113

The judicial protection of rights and of legitimate interests against acts of the public administration is always permitted before either ordinary or administrative courts

Such judicial protection may not be excluded, or limited to particular means of impugnment, or apply simply to specified categories of acts

The law determines which courts may annul acts of the public administration in cases and with effects provided for by the law itself

## *Title V The Regions, the Provinces, the Communes*

ARTICLE 114

The Republic is divided into Regions, Provinces, and Communes

ARTICLE 115

The Regions are constituted as autonomous bodies with their own powers and functions according to the principles fixed by the Constitution

ARTICLE 116

Particular forms and conditions of autonomy, in accordance with special statutes adopted as constitutional laws, are attributed to Sicily, to Sardinia, to Trentino-Alto Adige, to Friuli-Venezia Giulia, and to Valle d' Aosta

ARTICLE 117

Within the limits of the fundamental principles established by the laws of the state, the Region legislates in regard to the following matters, provided that such legislation is not in conflict with the interest of the Nation or of other Regions

Organization of the offices and of the administrative bodies dependent on the Region,
Communal boundaries,
Urban and rural local police,
Fairs and markets,
Public charities and health and hospital assistance,
Professional instruction, training of artisans, and scholastic assistance,
Museums and libraries of local bodies,
City matters,
Tourist trade and hotel industry,
Street railways and automobile lines of regional interest,
Thoroughfares, aqueducts, and public works of regional interest,
Lake ports and lake navigation,
Mineral and thermal waters,
Quarries and peat bogs,
Hunting,
Fishing in domestic waters,
Agriculture and forests,
Artisanship,
Other subjects indicated by the constitutional laws

The laws of the Republic may delegate to the Regions the power to issue norms for their execution.

ARTICLE 118

The administrative functions pertaining to the subjects listed in the preceding article reside in the Regions, except those of exclusively local interest which by the laws of the Republic may be attributed to the Provinces, the Communes, or other local bodies

The state may by law delegate to the Region the exercise of other administrative functions

The Region normally exercises its administrative functions by delegating them to the Provinces, to the Communes or other local bodies or by making use of their officials

ARTICLE 119

The Regions have financial autonomy within forms and limits established by the laws of the Republic which coordinate this regional autonomy with the finances of the state, of the Provinces, and of the Communes

To the Regions are assigned their own taxes and quotas of the taxes of the treasury in relation to the needs of the Regions for the expenses necessary to fulfil their normal functions

In order to provide for specified ends, and particularly for the development of the South and of the Islands, the state by law assigns special subsidies to certain Regions

The Region has its own domain and patrimony according to forms established by the laws of the Republic

ARTICLE 120

The Region may not levy import or export duties or duties on the transit trade between Regions

The Region may not adopt provisions which hinder in any way the free circulation of persons and things among the Regions

It may not limit the right of citizens to exercise their professions, employments, or labor in any part of the national territory whatsoever

ARTICLE 121

The organs of the Region are the Regional Council, the Executive Committee *(Giunta)* and its President

The Regional Council exercises the power of legislation and regulation attributed to the Region and the other functions conferred on it by the Constitution and the laws It may propose bills to the Chambers

The Executive Committee *(Giunta)* is the executive organ of the Region

The President of the Executive Committee *(Giunta)* represents the Region, he promulgates regional laws and regulations, he directs the administrative functions delegated by the state to the Region, conforming to the instructions of the central Government

ARTICLE 122

The system of elections, the number and cases of ineligibility and incompatibility of the regional councilors, are established by laws of the Republic

No one may belong at the same time to a Regional Council and to either Chamber of Parliament or to another Regional Council

The Council elects from its membership a President and a presidential bureau for its own labors

The regional councilors cannot be called to answer for opinions expressed or votes cast in the exercise of their functions

The President and members of the Executive Committee *(Giunta)* are elected by the Regional Council from its own members

ARTICLE 123

Every Region has a constitution which, in harmony with the Constitution and with the laws of the Republic, establishes the norms relative to the internal organization of the Region The regional constitution regulates the right of initiative and of *referendum* on laws and administrative provisions of the Region and the publication of regional laws and regulations

The regional constitution is enacted by the Regional Council by absolute majority of its members, and it is approved by legislative action of the Republic

ARTICLE 124

A Commissioner of the Government, residing in the capital of the Region, supervises the administrative functions exercised by the state and coordinates them with those exercised by the Region

ARTICLE 125

The control of the legitimacy of the administrative acts of the Region is exercised, in decentralized form, by an organ of the state according to modes and within limits established by the laws of the Republic In specified cases the law may admit control on the basis of general merit, solely with the effect of prompting, by formal demand, a re-examination of the decision on the part of the Regional Council

Within the Region are established organs of administrative justice of the first grade in accordance with the order established by law of the Republic Sections may be established with seats in other places than the regional capital

ARTICLE 126

The Regional Council may be dissolved when it performs acts contrary to the Constitution or commits grave violations of the laws, or if it fails to respond to the request of the Government to replace its Executive Committee *(Giunta)* or President when they have committed analogous acts or violations

It may be dissolved when, by reason of resignations or through the impossibility of forming a majority, it is not in a position to function

It may also be dissolved for reasons of national security

A dissolution is executed by a decree of the President of the Republic stating the reasons, after hearing a committee of deputies and senators constituted for regional questions according to procedures established by law of the Republic

With the decree of dissolution is nominated a Commission composed of three citizens who are eligible for the Regional Council, which Commission announces new elections within three months, and provides for ordinary administration within the competence of the Regional Executive Committee *(Giunta)* and for such acts as cannot be postponed These acts are subject to ratification by the new Regional Council

ARTICLE 127

Every law passed by the Regional Council is communicated to the Commissioner, who, except in case of opposition on the part of the Government, must approve it within a period of thirty days from its submission

The law is promulgated within ten days from the date of approval, and becomes effective not earlier than fifteen days from its publication If a law is declared urgent by the Regional Council, and the Government of the Republic consents, its promulgation and date of effect are not subject to the specified terms

The Government of the Republic, when it considers that a law passed by a Regional Council exceeds the competence of the Region or conflicts with the interests of the nation or with those of other Regions, returns it to the Regional Council within the period fixed for approval

When the Regional Council approves it anew by an absolute majority of its members, the Government of the Republic may, within fifteen days from communication of that fact, submit the question of its legitimacy to the Constitutional Court, or the question of the general merit of the regional law because of conflicts of interests to the Chambers In case of doubt the Court decides the issue of competence

ARTICLE 128

The Provinces and the Communes are autonomous bodies within the scope of principles fixed by the general laws of the Republic which determine their functions

ARTICLE 129

The Provinces and the Communes are also territorial units of state and regional decentralization

The Provinces may be subdivided into districts *(circondari)* with exclusively administrative functions for the sake of further decentralization

ARTICLE 130

An organ of the Region, constituted in accordance with procedures established by the law of the Republic, exercises, likewise in a decentralized form, the control of legitimacy over acts of the Provinces, Communes, and other local bodies

In cases specified by law, control on the issue of general merit may be

exercised in the form of a request stating reasons, submitted to the deliberative bodies for re-examination of their decisions

ARTICLE 131

The following Regions are constituted

| | | |
|---|---|---|
| Piedmont | Emilia-Romagna | Campania |
| Valle d' Aosta | Tuscany | Puglia |
| Lombardy | Umbria | Basilicata (Lucania) |
| Trentino-Alto Adige | Marche | Calabria |
| Veneto | Lazio | Sicily |
| Friuli-Venezia Giulia | Abruzzi and Molise | Sardinia |
| Liguria | | |

ARTICLE 132

By constitutional enactment, the Regional Councils having been heard, arrangements may be made for the fusion of existing Regions or the creation of new Regions with a minimum of one million inhabitants, when request for such arrangements is made by as many Communal Councils as represent at least one third of the interested populations, and when the proposal is approved by *referendum* of the majority of the populations themselves

By means of a *referendum* and by law of the Republic, the Regional Councils having been heard, consent may be given that Provinces and Communes which so request it be detached from one Region and joined to another

ARTICLE 133

Changes of provincial boundaries and the institution of new Provinces within the area of the Region are established by law of the Republic, on the initiative of the Communes, the Region itself having been heard

The Region, having heard the interested populations, may by its own enactment establish within its own territory new Communes and change their boundaries and names

## *Title VI Constitutional Guaranties*

### Section I The Constitutional Court

ARTICLE 134

The Constitutional Court decides
on controversies regarding the constitutionality of laws, and of acts having the force of law, emanating from the state and the Regions,
on conflicts arising over constitutional assignment of powers within the state, between the state and Regions, and between Regions,
on impeachments of the President of the Republic and of the Ministers, according to the norms of the Constitution

ARTICLE 135

The Constitutional Court is composed of fifteen judges one third named by the President of the Republic, one third named by Parliament in joint session, and one third named by the supreme judicial bodies, ordinary and administrative

The judges of the Constitutional Court are chosen from the magistrates of the superior courts, ordinary and administrative, including magistrates in retirement, from regular university professors of law, and lawyers who have had twenty years of practice

The Court elects its president from its members

The judges are nominated for twelve years, they are renewed by instalments in accordance with the norms established by law, and they are not immediately reeligible

The office of judge of the Constitutional Court cannot be held concurrently with that of member of Parliament or of a Regional Council, with the practice of law, or with any position or office indicated by law

In cases of impeachment of the President of the Republic or of Ministers there shall take part, besides the regular judges of the Court, sixteen members who are to be elected at the beginning of each legislature by Parliament in joint session from citizens having the qualifications of eligibility for the Senate

ARTICLE 136

When the Court declares unconstitutional a rule of law, or of an act having the force of law, the rule ceases to have effect from the day following the publication of the decision

The decision of the Court is published and is communicated to the Chambers and to the interested Regional Councils in order that, where it is considered necessary, provision may be made according to constitutional forms

ARTICLE 137

A constitutional law establishes the conditions, the forms, the time limits for proposing decisions as to constitutionality, and the guaranties of independence for the judges of the Court

By ordinary law are established the other rules necessary for the establishment and functioning of the Court

No impugnment of the decisions of the Constitutional Court is admitted

## Section II Amendment of the Constitution—Constitutional Laws

ARTICLE 138

Amendments of the Constitution and other constitutional laws are passed by each Chamber in two successive deliberations at an interval of not less

than three months, and they are approved by absolute majority of the members of each Chamber in the second voting

The laws themselves are submitted to popular *referendum* when, within three months of their publication, a demand is made by one fifth of the members of either Chamber, or by 500,000 electors, or by five Regional Councils A law submitted to *referendum* is not promulgated unless it is approved by a majority of the valid ballots

*Referendum* does not take place if a law has been approved in its second voting by a majority of two thirds of the members of each Chamber

ARTICLE 139

The republican form is not subject to constitutional amendment

TRANSITIONAL AND FINAL ARRANGEMENTS

I

When the Constitution becomes effective the Provisional Head of the State exercises the attributes and assumes the title of President of the Republic

II

If at the time of the election of the President of the Republic the Regional Councils have not all been constituted, only the members of the two Chambers will participate in the election

III

For the initial composition of the Senate of the Republic are nominated as senators, by means of a decree of the President of the Republic, deputies of the Constituent Assembly who have by law the qualifications to be senators and who

have been presidents of the Council of Ministers or of legislative assemblies,

have been members of the dissolved Senate,

have been three times elected, including election to the Constituent Assembly,

were declared dismissed in the session of the Chamber of Deputies of November 9, 1926,

have suffered the penalty of imprisonment of not less than five years in consequence of condemnation by the Fascist Special Tribunal for the Defense of the State

Likewise nominated as senators, by decree of the President of the Republic, are members of the dissolved Senate who were members of the National Consultative Assembly

Before signature of the decree of nomination the right to be nominated senator may be renounced Acceptance of candidacy in the political elections implies renunciation of the right to be nominated senator

IV

For the first elections to the Senate, Molise is considered as a Region in itself with the number of senators which belong to it in proportion to its population

V

The disposition in article 80 of the Constitution, in so far as it concerns international treaties which impose charges on the finances or modifications of the law, takes effect from the date of convocation of the Chambers

VI

Within five years of the effective date of the Constitution, a revision of the special organs of jurisdiction now existing will be undertaken, excepting the jurisdictions of the Council of State, of the Court of Accounts, and of the military courts

Within one year of the same date provision shall be made by law for the reorganization of the Supreme Military Tribunal with reference to article 112

VII

Until the new law on the organization of the judiciary bringing it into conformity with the Constitution shall have been issued, the norms of the existing organization will continue to be observed

Until the Constitutional Court begins to function, the decision of controversies indicated in article 134 takes place within the forms and limits of the norms pre-existent to the date when the Constitution takes effect

The judges of the Constitutional Court nominated in the initial composition of that court are not subject to the system of partial renewal and remain in office twelve years

VIII

The elections of the Regional Councils and of the elective organs of provincial administration will take place within one year from the effective date of the Constitution

Laws of the Republic regulate for each branch of the public administration the transfer of state functions attributed to the Regions Until provision shall have been made for the reorganization and the distribution of administrative functions among the local bodies, the Provinces and Communes retain the functions which they now exercise, and others the exercise of which the Regions delegate to them

Laws of the Republic regulate the transfer to the Regions of functionaries and dependents of the state, including those of the central administrations when rendered necessary by the new organization In setting up their offices the Regions must, except in cases of necessity, draw their personnel from that of the state and of local bodies

IX

The Republic, within three years from the effective date of the Constitution, will adjust its laws to the requirements of local autonomy and to the legislative competence attributed to the Regions

X

In the Region of Friuli-Venezia Giulia, referred to in article 116, the general norms of part II, title V, apply The protection of linguistic minorities in conformity with article 6 remains binding

XI

Until five years from the effective date of the Constitution, other Regions may be formed, by constitutional enactment modifying the list in article 131, and without recourse to the procedure required by the first paragraph of article 132, but with the obligation to hear the interested populations nevertheless remaining in effect

XII

The reorganization under any form whatsoever of the dissolved Fascist party is prohibited

Notwithstanding article 48, temporary limitations are established by law, for a period of not over five years from the effective date of the Constitution, on the suffrage and eligibility of the responsible heads of the Fascist regime

XIII

The members and descendants of the House of Savoy are not electors and may not hold any public office or elective position

To the former kings of the House of Savoy, their wives, and their male descendants are prohibited ingress into and sojourn in the national territory

The properties within the national territory of the former kings of the House of Savoy, of their wives, and of their male descendants revert to the state Transfers of and the establishments of royal rights on these same properties, which took place after June 2, 1946, are null and void

XIV

Titles of nobility are not recognized

The predicates of those existing before October 28, 1922, serve as parts of the proper name

The Order of St Maurice is conserved as a hospital corporation and functions in the modes established by law

The law regulates the suppression of the Heraldic Council

XV

When the Constitution goes into effect the legislative decree of the lieutenancy of June 25, 1944, number 151, on the provisional organization of the state, is held to be converted into law

XVI

Within one year from the effective date of the Constitution, the revision and coordination with the Constitution of the preceding constitutional laws, not until then explicitly or implicitly abrogated, will be undertaken

XVII

The Constituent Assembly will be convoked by its President to decide, before January 31, 1948, on the law for the election of the Senate of the Republic, on the special regional statutes, and on the press law

Until the date of the elections of the new Chambers, the Constituent Assembly may be convoked, if there is need to decide on matters placed within its competence by article 2, first and second paragraphs, and article 3, first and second paragraphs, of the legislative decree of March 16, 1946, number 98

In this period the standing committees continue to function The committees on legislation submit to the Government the bills transmitted to them, with contingent observations and proposals of amendment

The deputies may present questions to the Government with request for written reply

With reference to the second paragraph of the present article, the Constituent Assembly is convoked by its President on the written request of the Government or of at least two hundred deputies

XVIII

The present Constitution is promulgated by the Provisional Head of the State within five days of its approval by the Constituent Assembly and takes effect on January 1, 1948

The text of the Constitution is deposited in the town hall of every Commune of the Republic to remain displayed, during the whole of the year 1948, in order that every citizen may have knowledge of it

The Constitution, furnished with the seal of the state, shall be inserted in the official collection of laws and decrees of the Republic

The Constitution must be faithfully observed as the fundamental law of the Republic by all citizens and by the organs of the state

Given at Rome, this 27th December 1947

ENRICO DE NICOLA

Countersigned

The President of the Constituent Assembly

UMBERTO TERRACINI

The President of the Council of Ministers

ALCIDE DE GASPERI

[NOTE The present translation of the Italian Constitution is based on the one made by Howard McGaw Smyth, Mediterranean Section, and Kent Roberts Greenfield, Chief Historian, Historical Division, Department of the Army ]

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# PART V

## *The Government of Russia*

By WILFRED BRENTON KERR

Chapter 38

# The Country and the People of the Old Regime

## *GEOGRAPHY AND CLIMATE*

RUSSIA has the largest continuous territory under one flag in the world, fully one-sixth of the earth's surface and more than twice the area of the continental United States—by statistics, 8,400,000 square miles as against 3,000,000 It covers the east half of Europe and the northern third of Asia and is 6000 miles from east to west and 1800 to 2800 from north to south The geography is simple The northwest region has lakes and hills, the Caucasus is mountainous, and Russian central Asia touches the great ranges about India and Afghanistan Eastern Siberia has low mountains from the Yenisei River to the sea But all these elevated areas are on the edges and little in the consciousness of the average Russian or the visitor to the country The Urals, celebrated for their minerals, are the principal feature of the traditional boundary between Europe and Asia but are generally low, being only 1245 feet above sea level at Sverdlovsk, the ordinary crossing point, and they have never been a serious obstacle to movement Practically, Russia is a great plain from Arctic to Black Sea and from Baltic to Pacific

This plain has many large rivers which flow either north or south The greatest, as everyone knows, is the Volga, always a channel of communication between central Russia and the southeast Those which flow south have been of most value to the inhabitants, like the Don, which winds about the southeast steppes and empties into the Sea of Azov, and the Dnieper, whose upper reaches lead easily by the Dvina and Volkhov rivers to the Baltic and the Gulf of Finland and by the Desna to the region of Moscow These rivers are long and slow of movement, devoid of rapids except for one stretch of the Dnieper, and favor navigation, apart from running shallow in summer. Russia of the eighth to the eleventh centuries grew up about the "water roads" from the Baltic to the Black Sea and moved by them into the interior Russia has a long coastline—30,000 miles out of 40,600 of boundary—but has found the Arctic a poor sea and the north Pacific little better, by reason of

the ice She can use the Baltic and Black seas only with permission of powers which control the outlets She has one ice-free port in Europe which is all her own, Murmansk, and one or two like Petropavlovsk in the Pacific, of little value to date She has been landlocked and icebound and has spent much energy with little success to reach warm water on the south and east Only of late is she assured of adequate and continually usable harbors on the Pacific

The climate is of the continental type Eighty percent of the country is in the Temperate Zone, 16 percent in the Arctic, and four in subtropical areas in the Black-Caspian region Rainfall is uneven, the western winds from the Atlantic lose most of their burden of moisture before they reach Russia Over the south and central areas of European Russia the annual average is from twenty to twenty-five inches, in the southeast it is as little as ten inches and leaves extensive semidesert and desert lands about the north Caspian and through much of central Asia Eighteen percent of the surface is of this barren nature On the east edge of the Black Sea the Caucasus Mountains intercept the moisture-bearing winds and provide a rainfall of almost a hundred inches for a very limited area, but Russia as a whole has not quite the rain she needs The winters are long and cold—six months in central Russia, nine months in the north But as precipitation is light, they bring no great amount of snowfall and allow much sunshine In Moscow in January the thermometer often shows thirty degrees below zero Fahrenheit The pole of cold is in eastern Siberia, on high land distant from the equator and the sea, at Verkhoyansk it has touched ninety degrees below and by unofficial readings even a hundred degrees The south of course is warm, the Crimea is the Florida of European Russia, and Yalta has an average January temperature of thirty-nine degrees Batum is even more comfortable at forty-three degrees, and this whole region is the favorite holiday resort Summers in Russia are hot and can easily attain a temperature of ninety degrees, which has been recorded even at Verkhoyansk The Russians are familiar with extremes of temperature

The climate naturally governs the vegetation The arctic region of the north is tundra, 10 percent of the country, with perpetually frozen subsoil Only plants with short roots can grow, like mosses, lichens, berries, and low shrubs, the first two of which furnish food for the reindeer and indirectly for their Finnish and Lapp masters The population here has always been sparse and nomadic except at the ports, which have benefited from the Soviet regime Below the tundra is the forest zone, fully half of the country, containing softwoods to the north and hardwoods to the south The forest has suffered from man's inroads in the northwest and the center of the country but remains the world's greatest reserve of trees It opens out toward the south and permits a fair agriculture throughout central Russia In the area of the Ukraine is the famous black-soil region, one of the best in the world for crops Few trees grow here as the salts in the soil are bad for them, bu

the condition should not be regarded as hopeless East of the Ukraine are the steppes, grassy enough for livestock, and further east is the desert The bulk of the population accordingly lives in the middle and southern parts of the country.

## *RESOURCES*

Russia is rich in natural resources Besides her forests, farm lands, and livestock ranges she has nearly every type of mineral, metallic, nonmetallic, and rare She has particularly large reserves of coal, oil, iron, and copper The Ukraine has coal and iron, especially about Krivoi Rog, the Caucasus has oil, mainly about Baku, the Urals have almost every sort of mineral from the platinum for which they have long been famous to the great stores of iron ore at Magnitogorsk Coal is found in large quantities in the Don-Donets Basin, at Kuznetsk in western Siberia on the Tom River, and at Karaganda in central Kazakstan, copper abounds on the north shore of Lake Balkhash Manganese is found at Nikopol in the Ukraine Gold exists, especially in eastern Siberia and the far east, e g , the Kolyma fields, and only tin seems insufficient for the demand Salts of potassium and magnesium lie in great amounts about the Caspian and in the northern Urals, asbestos in the Urals This list is a bare indication of the riches of Russia and contains only the familiar names Russia has the greatest untouched resources in the world and may have many yet undiscovered For centuries she seemed unable to make use of them and likely to be a victim of greedy and ingenious invaders Partly by luck and partly by her own efforts she escaped the dangers and in our own day has herself undertaken the development and use of the great stores which nature has given her [1]

## *POLITICAL DIFFICULTIES*

In such a flat country, it was possible for the natives to go about easily and attain a common mentality But invaders had equal ease of movement and have troubled Russia many times From prehistoric ages to the thirteenth century, nomads of central and east Asia swarmed over the area north of the Caspian and Black seas and sometimes penetrated the Balkans and central Europe The latest were the Mongols, who overran almost all of inhabited Russia and were its overlords for 250 years from their seat at Sarai on the Volga not far from Astrakhan When the force from the east was spent, Russia was able to occupy her northland and Siberia and to reach the Pacific by mid-seventeenth century In the nineteenth, she completed the occupation of the Caucasus and central Asia as far as the borders of Turkey, Persia, Afghanistan, India, and China

At the same time, Russia had new difficulties on the west Enterprising

[1] Harriet L Moore, "Physical Features," chap 2 of Ernest J Simmons (ed ), *USSR A Concise Handbook* (Ithaca, 1947)

westerners, organized in national states, began to assail her the Swedes and the German crusading orders in the thirteenth century, the Poles in the early seventeenth century, the Swedes again until 1721, the French under Napoleon at the beginning of the nineteenth century, and the Germans in the twentieth Against these foes Russia used distance, she could withdraw her armies and eventually tire out the invaders But she has been on the defensive many times, has never felt secure, and if without enemies at a given moment is likely to imagine some

Had the Slavs been a military race, they might have repelled these invasions with ease But from the first days of their appearance in records they were the prey of every wandering tribe So many of them went into servitude that their name replaced the Latin *servus* to describe persons owned by others They saved themselves only by their fecundity, they multiplied in spite of all the losses and spread out in the wake of the advancing Germans and other migrants of the fourth to seventh centuries, to the Elbe River in the west, Bohemia in mid-Europe, the Balkans and the Adriatic in the south Later they retired before the returning Germans in the west but were able to form the states now represented by Poland, Czechoslovakia, Yugoslavia, and Bulgaria In their homeland they built commercial cities like Novgorod and Kiev along the water roads, and with the aid of a band of Swedes and Danes led by Ruric and his successors, they founded the state of Kiev The people of this state were neighbors of the eastern Roman Empire, did business with it, admired its civilization, and in the tenth century took Christianity from it For some time Kiev was a power in Europe, but it fell a prey to its own dissensions and to devastation by fresh nomads from the east In the late eleventh and twelfth centuries many Russians abandoned their capital and the Dnieper Valley and took refuge in central Russia by way of the Desna Here they cleared the forests, tilled the soil, and created new principalities and towns like Tver, Vladimir, Moscow, and Ryazan, among which Moscow eventually gained supremacy In the forests they were safe against all invaders except the Mongols and were able to wait out these overlords

The price for the safety was the loss of most of the civilization which Kiev had learned from Constantinople The church kept a knowledge of reading and writing and the elementary arts and crafts, but the population became backward, barbarous, and poor, lost touch with Europe and kept it with Constantinople only by considerable effort The ensuing subjection to the Mongols compelled the Russians to look east and strengthened the Oriental elements in their mentality The Prince of Moscow took on some characteristics of the Oriental King, the people a tinge of passivity and fatalism The women of the upper classes retired to seclusion in their houses, the men dressed like similar groups in the Orient until Peter roughly taught them better The change was voluntary, the Mongol overlords had no other interest in Russia than the tribute and made no attempt to impose their

Buddhism or ways of life on the people Presently they mingled with the Tatars and took their name and religion, Islam, and in the course of time broke into conflicting groups

In the latter half of the fifteenth century two important events occurred Constantinople fell to the Turks in 1453, and twenty-five years later Russia obtained her independence from the Mongol-Tatars She was now the leading champion of orthodoxy and felt the mantle of the Eastern Empire about her shoulders Ivan III toyed with the title of Czar or Caesar, which his successors adopted in earnest, took a princess of the Byzantine line, Zoe or Sophia Palaeologa as his second wife, and accepted symbols and ceremonies of that court All this easily induced his few learned subjects to speak of Moscow as the third Rome The Russians renewed the struggle against Tatars and Turks and slowly pushed their frontier forward across the Ukraine and the steppes In the reign of Ivan IV or the Terrible, they cleared the Volga Valley and reached the town of Astrakhan on the Caspian, and at the same time crossed the Urals into Siberia Russia of the sixteenth century gave promise of great things

The promise was interrupted for a century, as things turned out Russia fell into political chaos for nearly thirty years after the death of Ivan the Terrible (1584-1613) The Poles invaded the country, reached Moscow at one time and tried to dominate the Ukraine, and by their later close relations with Sweden brought on the Northern War between Peter the Great and Charles XII Although finally successful, Russia made an indifferent showing Inferior in the military art, oppressed by poverty and ignorance, she sought to copy the apparatus of Western civilization and particularly its military equipment But her people lacked technical skill and the faculty of organization and had little value for their efforts They could succeed only by great superiority of numbers, and in the sixteenth and seventeenth centuries they adopted a working rule of placing two Russians to every westerner in the field before they had a chance of success Peter the Great improved the army, took advantage of a gross error on the part of his opponent Charles XII, overcame the Swedes, and reached the Baltic, but he had little success in a struggle with the Turks His daughter Elizabeth shared in the Seven Years' War against Prussia and so entered the international politics of Europe The next important ruler, Catherine the Great, continued the policy with consent of Prussia and Austria, absorbed most of Poland, and reached the Black Sea along a wide front, including the Crimea

At this point, the struggle with Napoleon began Its successful conclusion in 1814 gave Russia great prestige and the chief influence in Europe in the time of Nicholas I (1825-1855) She pushed toward warm water in the Near East, the Indian Ocean, the Yellow Sea, not intending serious wars and greatly annoying the British Empire By miscalculation, she incurred two wars in the process, the Crimean (1854-1856) and the first Japanese (1904-1905),

and failed in both By wars against Turkey she liberated the Slavic nationalities of the Balkans, with little gain for herself The threat to Constantinople aroused the hostility of Austria as well as Great Britain and set off a century and a quarter of rivalry between Slav and German Alexander II (1855-1881) was so careless as to permit Bismarck to build a strong and militarized Germany on Russia's western flank, and thereby placed his country again on the defensive, fighting for its life In this difficulty, Russian diplomats had a keen eye for national safety, they stopped the push toward warm water and made agreements with France and Great Britain in anticipation of the First World War In the war itself, Russia's government and industry failed her and brought on defeat and a Communist revolution Germany, defeated in her turn, presently revived under the leadership of Hitler and coveted Russia's great wealth Before this new aspect of the German menace Russia's diplomats did badly, but her industrial and military leaders had accumulated strength enough to bring Hitler to a halt and later to overcome him with aid from the western powers In 1945 Russia stood as the greatest power of Europe and Asia and the second in the world

Much of this increasing prominence on the international stage outstripped internal strength Russian society remained feudal in structure, though perhaps not in spirit, for centuries The leading element in old Russia was the group of boyars or landlords who led their retinues to war Some of the population were slaves, most were free farmers The military needs of the sixteenth and seventeenth centuries led the rulers to grant rights over the free peasantry to anyone who undertook to appear in the field with a quota of soldiers In the long run the practice greatly increased the landlord class and made the mass of the country population serfs By mid-nineteenth century there were about 100,000 landlord families and nearly 50,000,000 serfs, half on crown lands Single farming persisted in outlying regions, in the north, Siberia, the steppes, and the Ukraine But Russia had done badly by her people in creating serfdom at the moment when other countries were about to cast it off

## *ORIENTALISM*

Socially, Russia retained much Orientalism Peter and Catherine tried to teach the upper class to imitate the West and had introduced some of the arts, crafts, and manners of Europe, but devoted most of their energy to military affairs and left the people backward Critical westerners of the nineteenth century thought the Russians slothful, fatalistic, inefficient, careless of truth, callous to suffering, adept in the arts of intrigue and deception [2] Persons who knew the people intimately admitted something in the indictment and laid it to a happy irresponsibility and heedlessness of such things as time, of which there was an infinite amount in old Russia Good-natured

[2] E J Lanin, *Russian Traits and Terrors* (New York, 1891) Lanin is a pseudonym

and pacific, says Sir D M Wallace of the peasantry, when drunk they were affectionate rather than quarrelsome Among themselves they were normally truthful, when dealing with officials they displayed great gifts of the imagination Merchants took similar liberties with the properties of their wares and liked to drive a hard bargain The Russian could endure any amount of pain and was indifferent to it in others Yet he was a fraternal fellow, welcomed friendship and had a gift of humor The resident soon came to make allowance for his habits and came away with a liking for the people

Russia's Orientalism was not without its virtues, it had kept class-consciousness weak The landlords naturally preferred their own company, married among themselves, and expected to serve the government in some civil or military capacity But they had little pride of class and never dreamed that a long pedigree had any right to political privilege or social consideration They engaged in no struggles against the monarchy or the middle classes and had no traditions, they made no pretense to art or culture What gave distinction in old Russia was service to the Czar and only while it continued For practical purposes there was a substantial equality and fraternity if little political liberty Peter the Great took a baker's boy to be his chief assistant (Menshikov) and a servant girl with a stained character as his second wife, to succeed him as Catherine I—a procedure impossible in western Europe Landlords and peasants talked familiarly to each other, in every crowd and church, frock coats and sheepskins stood side by side The Russian of any class was a social being, barely aware of group exclusiveness [3]

## *EMANCIPATION OF SERFS*

The work of westernizing the country without thought of military advantages was undertaken by Alexander II (1855-1881) He set to work on the emancipation of the serfs, he freed the domestics (with a two-year period of adjustment) and the crown serfs and gave these most of the land they had been cultivating The problem was to liberate the private serfs with attention to the interests of all Landlords and peasants were to divide the land half and half, and the peasants were to pay for the land and the attendant dues and services, the legal property of the lord But as they had no money to do this, the government lent it to them to pay off the landlords at once, and arranged to recover its money in annual installments, forty-nine being the common number The next difficulty was the choice between single and communal ownership of the peasant land Many, perhaps most, of the peasants would have preferred single ownership, but this would have involved a radical change from the existing communal holdings and in the long run would give rise to inequalities of property Accordingly the land continued in communal ownership and was assigned to the families for use, the portions to change hands at intervals, e g , five or ten years, to give everyone a turn

[3] Sir D M Wallace, *Russia* (London, 1912), pp 318-319

at the good and the bad lands Peasants might not alienate their lands, they might rent or buy land from the proprietor (or anyone else), hire labor, and work for hire themselves The village assembly and the elected elder were in charge of the arrangements The communal village, called mir, became the lowest unit of government, several of them formed a township or volost [4]

## *PEASANT OF THE OLD REGIME*

The results were in many ways contrary to expectations The peasant had his freedom indeed but took it for granted and interested himself chiefly in his land Commonly he had about twenty acres of arable land in addition to a share in the pasture and the woodland, and he would compare with his American contemporary who had fifty acres With Russian methods, the plot was too small for much more than subsistence, and it would be another man's holding in a few years The farmer had little incentive to improve his land and tended to work it perfunctorily Every man's weeds and diseased animals affected those of his neighbor, and even his management was of concern to those who would succeed him in the holding In these conditions it was easy to get up a quarrel In the north and the area of poor land the anxiety was not to have too much of it, in the good land of the south the anxiety was to have as much of it as possible and either case promoted disputes The peasant had plenty of time to look at the proprietor's land, to remember that he had helped to work all of it, and to feel cheated of half in the emancipation He had a tradition to support the grievance, he knew that once upon a time the predecessors of the proprietor had obtained rights over a free peasantry as reward for a military service that was no longer exacted He argued that the proprietor had no moral right to the land, and looked on it with envy Through the countryside accordingly prevailed a sense of instability and a land hunger of which the Bolsheviks were to take advantage in 1917 In spite of the equality of holdings, some peasants tended to do better than others, often by a financial tightness which inspired the opprobrious name *kulak* (fist) They bought parcels of land from the proprietors and steadily increased the proportion of peasant land In 1917 peasants had 70 percent of the farm land in European Russia, not counting Poland or Finland, and were renting much of the remaining 30 percent Siberia was almost entirely a land of small farms

As a typical village of the north region of European Russia, Wallace selects Ivanovka in Novgorod province It had two rows of wooden or log houses with gable ends on the road, which was simply earth, and mud to the knee in wet weather Each house had a gate and a fence to separate the yard from the road, and a door at the side In the main room were two small windows toward the road The most conspicuous objects were the large whitewashed brick stove and a great shelf extending from it to the wall and serving as a

[4] P Malevsky-Malevitch, *Russia—USSR* (New York, 1933), pp 36-37

bed In the corner opposite the door was a small shelf with an icon and an oil lamp A long bench, table, stools completed the furniture The air was often stifling The peasant was not innocent of cleanliness, he took a vapor bath Saturday afternoon or evening in preparation for Sunday He might take it in the bread oven and in winter would rush out into the snow to cool off Some villages had public baths as alternative But clothes were often unwashed and unchanged and full of the intimate sorts of insects

The staple food was rye bread into which sand might find its way, and it required careful mastication Bread, eggs, and tea were standard diet, with cucumbers, cabbage, potatoes in season and a little fruit The animals were for work, milk, and wool and available for the table only when worn out and ready to leave the world on their own account In any case, the church required many meatless days seven weeks in Lent, two or three in June, seven or eight before Christmas, all Wednesdays and Fridays, i e, nearly half the year It was often said that the church would do better by the peasant if it let him eat more and taught him to drink less of his beer *(kvass, braga)* and the high-potency vodka

This mir had two thousand acres, light and sandy soil, worked by most of the women and half of the men Half the land was arable in three fields for rye, oats or buckwheat, and fallow in rotation and was assigned in strips to the families The rest was pasture and woodland, the pasture allotted in strips every year Each family might sow as it would, provided it conformed to the scheme of rotation The head paid a tax to the village treasury, and if he continued to pay, might go to the city to work and retain his rights in the mir Many of the men went to town and kept a stake in the country against possible hard times

The governing body was the assembly of heads of households It elected the elder or rather found someone who could not in decency evade the duty The assembly decided the field operations and the allotment of the strips when necesary It proceeded quite informally—gathered in groups and discussed while the elder went about from one to another until he had the sense of the meeting Women shared in it if they were heads of households

The peasant had a hard run in May to do the plowing, cultivating, and sowing for the spring grain In June he had some leisure and might prepare the fallow field From mid-July to the end of September he worked long and hard at the hay and the grain and concluded the field operations with a harvest festival on October 1, often with too much vodka In the autumn and winter he had little to do The routine made an impression on his temperament, to this day the Russian is better at a sudden spurt than a long sustained pull [5]

In the Ukraine, housing and living standards in general were somewhat better The ordinary house was a two-room cabin of squared logs, plastered with clay and whitewashed within and without The roof was covered with

[5] Wallace, *op cit*, chaps 2 to 9

thatch, sometimes with metal Earth was piled three feet high against the walls, for warmth in winter, the windows had double panes for the same reason A shed for the cow and pigs stood against the south wall Inside were the large brick stove, a wooden table, chest, and three-legged stools, all homemade The people were noted for their instinct for decoration, their good cookery, and their puritanical mode of living [6]

## *PEASANT WOMEN*

The women had no high status in old Russia At eighteen the boy was told he ought to marry The mother or grandmother looked over the available girls and talked to their parents She wanted not beauty but physical strength and expected no dowry other than pairs of good arms and legs The chief difficulty was church law about marriages of relatives, since everyone in the village was related in some degree to everyone else Once the girl was selected and her parents were satisfied, the pair were married in church and brought to the groom's home The affair was singularly lacking in sentiment and romance, the groom might leave the bride immediately and go to work in a town for months Few novelists of old Russia made themes out of the normal attraction of a young man and a young woman Proverbs declared, "When the hair is long, the mind is short", the husband often beat his wife and had some admiration from masculine society for it Sex equality was an idea far above the countryman's head [7]

## *THE PROPRIETORS*

About 100,000 families belonged to the proprietor class after the emancipation, but the number diminished as they sold land to the peasants Seventy families had the title of count, ten that of baron before 1914 (not to include the German titles in the Baltic provinces) Such distinctions were few and had a foreign flavor The only native title was *knyaz*, usually translated prince It implied descent from a royal family, particularly the house of Ruric, and went to all the children But it conferred no distinction of any kind and might be found among the cabbies of Petrograd The honor was little more than that of belonging to the Mayflower Society in the United States

The typical manor house as described by Wallace was a long one-story wooden structure with no claim to architectural merit The roof was formed of planks, moss-covered in the course of years About the house were an ill-kept yard and garden, stables, sheds and barns, and a separate kitchen for the cooking in oil The buildings were time-black, innocent of paint, and often tottery At one end of the house was the apartment for males, at the other that for females, and in the middle the dining room and salon as neutral

[6] John Fischer, *Why They Behave Like Russians* (New York, 1947), p 190
[7] Wallace, *op cit*, pp 90-91

territory The furniture was a set of rickety chairs and tables and a bookcase Two doors opened to the front, one to the back and a spacious veranda

The master was in his sixties in the days after emancipation He had elementary education from the priest and a tutor and had profited little by it At eighteen, he was supposed to serve as officer or official until he might take over the estate, but he had no inclination for either of these duties and managed to compromise by taking an office, hiring a substitute, and performing the work by proxy until he could decently resign the position His parents chose a bride for him, the daughter of a neighbor proprietor who brought a coveted piece of land as dowry She had had some tuition from the priest and a governess and was her bridegroom's intellectual equal, which may have been no high praise The master had taken no important decisions in his life and had exerted himself as little as possible, on the other hand, he was temperate in his habits and caused no scandal He arose at seven, had tea and bread at nine, sat about till dinner at one, enjoyed a siesta from two to four and tea thereafter At six he might do a turn in the fields with the steward in a cart while his wife received the *popadya* or priest's wife, come to unburden herself of whatever scandal she had been able to collect The master would come back to talk with groups of peasants who might want something "Well, children, what do you want?" He granted the requests if he could, otherwise would send them away after an argument "You are blockheads" He talked with the steward about the work for the morrow, had a supper, and went to bed Books and newspapers were rarely to be seen in the living room, some books purchased by ancestors reposed in the bookcase and gathered dust [8]

Not all proprietors were as unenterprising as this Ivan Ivanitch Some were energetic, bought the new machinery of the west, and improved their properties and yields By and large, however, the class were inert economically and politically, content to do what the Tsar bade and incapable of defending themselves against the Bolshevik assault of 1917

## *AGRICULTURAL PRODUCTION*

European Russia had a quarter of the country's land area, of which in round numbers 19 percent was reckoned unusable, 39 percent forest, 26 percent arable, and 16 percent pasture No doubt some of the unfit land could be made usable by effort as was occurring Proprietors and single farmers were increasing production and sending grain abroad, to make Russia one of the important wheat export countries in the early twentieth century Before 1917 wheat occupied about 20 percent of the arable land and came to 21,000,000 tons out of a world total of 110,000,000 Rye was about 20,000,000 tons But methods were poor and yields were small, e g , 13 5 bushels an acre for wheat, and there was some question whether Russians could not have eaten

[8] *Ibid*, chaps 20, 21

all their wheat if they had been able to pay for it Potatoes in 1913 were said to be 27,000,000 tons Horses were reckoned at 34,000,000 in 1917, cattle at 59,000,000, sheep and goats at 115,000,000, pigs at 20,000,000—all small figures for an area like Russia's and a population of 180,000,000 Russian farmers for reasons good or bad were making poor use of the resources which nature had placed at their disposal [9]

## *NATIONAL MINORITIES*

Russia's advances to west, north, south, and east since the fifteenth century had brought within her control a great many peoples of many races, tongues, and religions The population falls into ten major divisions and 174 ethnic groups at one calculation, the number varying with the definition of such a group About one-quarter of the whole have more or less yellow skin and many of these were nomads The midway point between yellow and white is represented by the Tatars, who appear European if placed beside Mongols and Mongol if placed beside Europeans There are 125 languages or dialects and about forty religions Some of the tribes of north Asia are or have been until recently in the Stone Age of civilization In spite of the bewildering variety of races, the whites and Slavs are considerably in the majority The Great Russians are 53 percent of the population, the Little Russians, Malorussians, or Ukrainians are 21 percent, the White or Byelorussians 3 percent, and the proportion of Slavs is three-quarters. The differences among these groups are of dialect, culture, and slightly of racial mixture Philologists are yet unable to agree whether Ukrainian is a dialect or a language closely related to Russian

The Ukraine is the mother of Russia, the cradle of the Kiev state, and its people feel themselves a step above the Great Russians socially, intellectually, and culturally White Russia, long associated with Poles, Lithuanians, and Germans, also feels slightly superior to Great Russia, but in both instances separatist movements have been weak The irritation of the Ukraine is not that Russia rules it but that it does not rule Russia

The Germans of the Baltic provinces and the southern cities were weak in numbers but strong in their estates in the country and their businesses in the towns They were probably the most active and energetic element of the population and often held important government posts Despising the Russians, they lived much to themselves and had their own churches and schools They had a considerable settlement of half a million people on the Volga 150 miles above Stalingrad, known as the German commune and distinguished for neatness and prosperity

In 1941 the Great Russians numbered 105,000,000, the Ukrainians 37,000,000, the Byelorussians 8,600,000, for a Slav total of 150,600,000 The second

[9] S P Turin, *The U.S.S.R. An Economic and Social Survey* (New York, 1944), p 5 The tons are metric (2204 lbs)

group are the Turco-Tatars, 21,000,000 and all Moslems The third group is the Japhetic, olive-skinned peoples living in the highlands of the Caucasus and Transcaucasia, about 7,000,000 The Finno-Ugrians in north Russia, Karelia, and Estonia were about 5,000,000 These are the chief races in and near Europe, those of Asia are too numerous for a description in these pages It is to be noted that the famed Cossacks are not a race, they are Russians of all sorts who ventured into the no man's land between Russia and the Turco-Tatars in the sixteenth and seventeenth centuries, wrested the Dnieper and Don valleys from them, and lived the life of frontiersmen, horsemen, and lovers of equality They are the irregulars of Russian warfare, picturesque and cunning, good scouts but not men for a long hard contest They escaped serfdom and established themselves comfortably on farm or grazing lands of their own [10]

## *THE JEWS*

The Jews deserve special notice The old grand duchy of Muscovy had practically none of them—a fact which pleased the first Czars In her expansion into the Ukraine, White Russia, and Poland, Russia became ruler of many Jews and set up a pale (restricted area) of residence for them The ordinary Jew might live only in the southern and western provinces, university graduates, craftsmen, merchants, professional men might obtain exemption from the order and live anywhere The restriction bore most heavily on the small trader and moneylender, and it compelled some Jews to become farmers In the Czarist period there were several agricultural colonies of Jews in the Ukraine

The reluctance to let Jews use the interior of Russia was not due wholly or even mainly to anti-Semitism The Jewish businessman in a Russian village was much more active and alert than the illiterate inhabitants, he would get the better of them in deals, and before they realized what was happening, would soon have everything of value in the area The people, not understanding commercial processes, developed a resentment that led easily to a pogrom or massacre of Jews In these conditions it seemed good policy to keep the races apart except in the cities, where contact would do little harm The imperial government was never able to devise a better solution for the trouble

This was not the only restriction on the Jews Even in the pale they might not live in a certain area The government set a quota for them in the new public schools of the late nineteenth century 10 percent generally, 5 percent in the great cities Again, the motive was not anti-Semitism The schools were few, their capacity was limited Without a quota the Jews might have had a majority of the school population in many areas The problem was to educate the Russians, and a quota of double the proportion of Jews to the population

[10] W H Chamberlin, *The Russian Enigma* (New York, 1943), has a good chapter (3) on the races

seemed a fair compromise The government laid special taxes on the Jews to keep schools for them It employed few in the civil service, none as officers of the forces Under all these restrictions, the Jews became enemies of the old regime, they entered the revolutionary societies and led them in numbers much out of their proportion to the population There were 6 5 million Jews in old Russia, most of them engaged in circumventing some government regulation and usually succeeding In these conditions of mutual antagonism it was not possible to solve the Jewish problem [11]

For many years the government of Russia was content to ignore the national minorities unless they gave trouble But in the latter half of the nineteenth century the heightened national feeling of the country led to pressure on the minorities, called Russification, manifested chiefly in the dominant or exclusive use of Russian in the schools The policy was applied first to the Polish areas after the revolt of 1863, later to the Germans in the Baltic areas, the Finns of Finland, the Moslems It provoked conflicts and was abandoned sooner or later, having merely sharpened national frictions and added to the difficulties of the administration

## *ORTHODOX CHURCH*

In respect of religion, Russia is identified in the eyes of the world with the Orthodox Church The Eastern form of Christianity was accepted by Vladimir, Prince of Kiev, in 988, and became the official religion of the country while the Tatars to south and east were embracing Islam This was a great stroke of fortune for the Orthodox Church, as it came to term itself, it made that church in the long run the spiritual home of 200,000,000 people instead of a mere 30,000,000 or 40,000,000 through the Near East For Russia at the moment it meant another bond with Constantinople, to which the Russians looked with respect and affection The patriarch of the great city sent metropolitans to Kiev and monks to set up religious communities there, all of which made Kiev a holy city Literature and art followed the fashion of Constantinople, and Russia was Byzantine in the best sense She had no thought but to remain with the Eastern Church in its differences with the Western until and including the schism of 1054, and after that event looked on Rome as western and schismatic and altogether an enemy The approach of the Turk to Constantinople in the 1430's led the Eastern Emperor to negotiate with the Pope for a union of the churches in the hope of aid from the west The council of Eastern and Western prelates at Florence in 1439 accepted the headship of the Pope, saving the rights and privileges of the Eastern patriarchs, but led to no worth-while aid from the west and did not save Constantinople The proposed subordination to the Pope provoked a revolt in the Orthodox Church led by Bishop Mark of Ephesus and to repudiation by a synod after the fall of the city

[11] George Hume, *Thirty-Five Years in Russia* (London, 1914), pp 225-232

Even before this event Russia had made its own choice The patriarch of Constantinople had appointed a Greek named Isidore as metropolitan of Moscow Isidore attended the council of Florence and accepted its decisions He returned to Moscow and read the directions of the council in his cathedral Thereby he provoked strong disapproval and arrest but was permitted by Basil II to leave the country The Russian prelates assembled and elected Jona of Ryazan their metropolitan From that time the metropolitans of Moscow were Russians

In 1588 the patriarch of Constantinople, named Jeremy, was visiting Moscow The regent Boris Godunov wanted him to stay and transfer his seat to that town He refused, but next year consented to consecrate the metropolitan Job as first patriarch of Russia Moscow took fifth place in the ranking of Orthodox patriarchates, after Constantinople, Alexandria, Antioch, and Jerusalem The patriarchs played notable parts in the story of Russia from 1589 to 1700 and at times overshadowed the Czars Peter the Great found the patriarch Adrian cool to his reforms and at the latter's death in 1700 did not replace him Twenty years later he appointed a board of high clergy to manage the church, called the Holy Synod, and a layman to represent himself, the procurator The Czar was only administrative head and supplier of money to the church, he was no pope and never dreamed that he could alter church doctrine or practice, which would fall to a congress of the whole Orthodox Church The Russian prelates wanted a patriarch but could not obtain one until 1917

Under the Holy Synod came the metropolitans of the great cities Under these were the bishops, commonly one to a province and 130 in all in 1917 Under them were priests, deacons, and clerks to a total of about 100,000 In 1914 there were over 54,000 parishes with churches and 26,000 chapels

## *RELIGIOUS HOUSES*

The church set great store by its religious houses Statistics on them differ, no doubt with the definition of a house, but in 1914 there were at least 500 recognized institutions of this kind The most famous was the Trinity (Troitsa) thirty miles from Moscow—a whole community containing an imperial palace, a metropolitan's palace, nine churches, hospitals, dwellings, the tombs and relics of well-known figures of Russian history The houses in all of Russia in 1914 contained about 6000 monks and 3000 nuns They had lost their estates in the eighteenth century and had only the buildings and the grounds about, they lived chiefly on money from the Csar and on the offerings of the faithful

The head of a monastery was called archimandrite, his assistant hegumen (of a nunnery, hegumena) The monks followed the rule of St Basil, which allowed much latitude for individual observances They took no vows until thirty years of age, nuns not till fifty They abstained from meat and wore a

black gown with a girdle of cord or leather and a high cap with a veil falling over the shoulders The rule of the Orthodox Church, that bishops may not be married, left episcopal positions to monks and to the few widower priests The practice had an obvious disadvantage the monk-bishop is unfamiliar with parish work and needs some years to know his duties well The Orthodox Church holds itself to be the true representative of early Christianity—"mother of all the churches" It is not an exclusive body but meets other Christian groups at conferences and has especially close relations with the Church of England [12]

## *PARISH PRIEST*

For the parish of the pre-1914 period, we turn again to Sir D M Wallace The parish church of Ivanovka had five pear-shaped cupolas and an ugly belfry arising out of a bright green roof and altogether lacked merit of design The priest had a dingy brown robe buttoned close at the neck, a wide hat, heavy boots, a full beard, and hair over his shoulders, and he carried a long brown stick with a silver knob He had attended the seminary in the chief town of the province for four years On graduation, he had received from the bishop a new name, perhaps from the calendar of Greek saints, a wife, and a job The wife might well be the daughter of a priest's widow and bring the mother-in-law problem to her husband as a dowry The church would not marry an ordained man and insisted that he marry first The priest was the *batushka* or little father He called on the peasants for a tithe of their produce and collected it himself, to the embarrassment of all concerned He had some land for vegetables and crops, and fees for weddings, burials, baptisms His chief business was the services on Sundays, holy days, and festivals, the blessing of crops and animals, the weddings, burials, baptisms If he wanted to preach, he needed a license from the bishop, and in no case would he touch on church policy He was not expected to supervise the morals of his flock closely, to comfort the afflicted or help the needy, he conducted no Sunday School and had no youth or adult society to manage He laid little stress on the Bible and did not urge his congregation to read it, as most of them were incapable of doing in any case He gave no intellectual or moral training to his people and earned the title of chief magician from rude outsiders Priests, though normally honest and conscientious men, were not leaders of the community in these circumstances and had not the prestige of the western clergy Sons of priests usually followed the profession, though outsiders might compete with them like Stalin in his youthful days

The parishioner of old Russia accordingly had little grasp of his creed and when asked about the Trinity might define it as Christ, Mary, and St Nicholas If he went to church Sundays and holy days, crossed himself to an icon or in front of a church, took communion regularly, abstained from

[12] A J C Hare, *Studies in Russia* (London, 1885), chap 7

meat at the proper times, confessed at least once a year, made a pilgrimage to some shrine once in a lifetime, had a final confession and unction, he was ready to die in perfect confidence of salvation for his soul Nevertheless he had a poor understanding of his religion and might be shaken by attacks on it

The icon played an important part in the Russian's life An icon is a painting, usually half length and in Byzantine style on yellow ground, of Christ, Mary, or some other holy figure The crown and costumes were often covered with pearls, real or paste Every home in old Russia had one high in the corner opposite the door, beside a candle to be lit on the evening of a festival The visitor bowed and crossed himself as he came in and went out, the family did likewise before and after meals

Ordinary icons did no harm, but others, called miracle icons, led to difficulties Revealed in some dream and discovered in consequence, the icon would be removed to a church or religious house Thousands of persons would come to test its healing powers and a few would be healed The Holy Synod might investigate and certify it as a true miracle icon The fortunate church or house would have throngs of visitors and a great revenue from them Some of these icons attained fame like the Kazan and Iberian Madonnas, rented out to cure the rich of their ills while duplicates discharged their duty in the original location The church also tolerated beliefs in relics, often of a fraudulent character Its failure to impress its creed on the people, its encouragement of miracle icons and supposititious relics seemed harmless at the moment but were a source of great weakness in the time of trial in the 1920's and 1930's

## *POPULAR RELIGION*

Popular religion presented an assortment of ideas St Nicholas was the most popular saint of folklore, the doer of informal justice God was a hard taskmaster, Christ a helper of the poor peasant against his rich neighbor but rather colorless St George, who links England to Russia, was the timely protector, Elias (Elijah) was the prophet of thunder The devil of story had considerate treatment, apart from his required trade he was a good fellow and could be a benefactor Russia had many wandering prophets, *strannıkı*, who took it upon themselves to go and preach as they would and some of whom had national reputations Ideas of the old paganism survived, rivers, lakes, even households had their spirits who needed sacrifices and might respond to sorcery St Vlas was the thinly disguised heathen deity Veles, who watched the cattle Pure paganism was far from dead in the nineteenth century, the Finnish tribes in the north were still in process of conversion The Chuvashes were praying to the old gods and St Nicholas and one of them sacrificed a foal to Our Lady of Kazan

A few sects had broken away from the Orthodox Church, notably the Old Believers or Raskolnıkı, who went their way in the seventeenth century

over very minor questions of church practice like the spelling of the name of Jesus and the manner of crossing oneself In the nineteenth century they numbered three or four millions in four groups The most peculiar sect were the Khylsti or Whips, who danced, jumped, spun around in their exercises, and might well conclude with a sex orgy They preached the need of sin before a proper repentance and indulged freely in both, and had influence in the religious community of Verkhoture, which Rasputin favored with his presence for a time [18]

## *RELIGIOUS MINORITIES*

The Roman Catholics were 9 percent of the population in 1917 and nearly all Poles and Lithuanians—"the Polish religion" to the Russians In federation with them was the Uniat Church, originally Orthodox groups which had accepted an arrangement like the Florence formula under Polish pressure in 1596 The Uniats kept their own practices and acknowledged the headship of the Pope The Russian government, as it incorporated Lithuania and Poland under itself, brought pressure in its turn on the Uniats and took most of them into the Orthodox fold again, thereby increasing friction with the Roman Church

The Protestants were 4 8 percent of the population in 1917 The oldest group were Lutherans in the areas settled by Germans on the Baltic and the Ukraine They were not missionary-minded but by their simple example helped form Protestant sects Of these the Baptists are most notable and chiefly Ukrainians They are fundamentalists, readers of the Bible, strict in their conduct, and enjoy the respect of their neighbors and the interest of their fellows in western Europe and the United States The Jews were 4 percent of the population in 1917, Armenians 1 percent The Moslems were 10 percent, and lived mostly in central Asia, Turkestan, and the east Caucasus like Azerbaijan, culturally they were part of the Arab world Buddhism prevailed on the border of China, all manner of weird beliefs in the tribes of north Asia, and Russia was a mosaic of religions as of races

## *ADMINISTRATION OF THE CZARS*

Russia under the old regime was the world's best-known example of despotism The ruling family, the Romanovs, had held their position since the end of the time of troubles in 1613 The dynasty had an inconspicuous record in the seventeenth century, save for Peter the Great, resumed its insignificance after his day, and revived itself by marriages with German princesses to produce several able rulers in the nineteenth century Of these the last Czar, Nicholas II (1894-1917), was not one Weak and amiable, he was under the domination of his wife Alix of Hesse, who took the name Alexandra, she was a non-political woman who never understood Russia

[18] Stepniak (pseud), *The Russian Peasantry* (New York, 1888), chaps 5, 6.

and could not guide her husband He found two able ministers, Sergei Witte and Peter Stolypin, but on the death of the latter in 1911 had only a succession of mediocrities and let the machinery of government run slowly

From the time of Peter, the Czar had a Senate and allowed it chiefly judicial duties Alexander I had created a Council of State in charge of the laws, though not exclusively In the later part of the nineteenth century a cabinet of normally ten ministers came into being, responsible only to the Czar Under these was a civil service which had notoriety through Europe for venality and inefficiency The personnel had low salaries and took bribes readily They had a casual view of their duties, a top civil servant, says Wallace, might spend only four hours a day at his desk and consume a large part of that time smoking cigarettes A forcible minister could get things done nevertheless, another might be nearly helpless Undoubtedly the government was the least efficient in Europe [14]

## *THE DUMA*

No trace of a central assembly existed until 1906 After the revolution of the two preceding years, the Czar formed a two-house legislature with limited powers The lower house, commonly called Duma, was chosen in a complicated way The large cities elected their deputies directly, all others indirectly, in two, three or four steps Landowners and urban electors, except workmen, used two steps, workmen, three In the country, the peasants met in villages to elect delegates to *volost* conferences, these elected to district *(uyezd)* congresses, which elected representatives to provincial assemblies which finally chose deputies to the Duma These electoral arrangements were considerably modified in succeeding years by Stolypin to give landowners and merchants the predominance The upper house, called Council of Empire, was composed in equal numbers of appointed and elected members The appointed members were normally high civil servants, sensitive to pressure from the government The others were elected by provincial zemstvos, by gatherings of the provincial noblesse, by trading and industrial organizations, by the academy of science, the universities, and the clergy The weight was on loyal elements, and the upper house gave no trouble whereas the lower was in turmoil for two years

The Czar remained head of the executive, the judiciary, the armed services He alone changed the constitution and he might veto ordinary laws He enjoyed a fixed part of the budget and was dependent on the legislature for unusual expenses only The despotism was only slightly modified by this constitution of 1906, but probably as much as was advisable in the circumstances [15]

Below the central government was the provincial organization, with forty-

[14] Wallace, *op cit*, p 540

[15] Malevsky-Malevitch, *op cit*, pp 156-159

nine provinces in Russia proper and the territory of the Don Cossacks Poland had ten provinces, Finland eight, the Caucasus nine and two territories Siberia had four provinces and four territories, central Asia nine territories—to a grand total of ninety-six units Each province and territory had a governor, and in ten areas the provinces were associated into governor-generalships, e g , in Poland, Lithuania, Kiev, Moscow, Finland, Siberia, central Asia, the Far East, the governors general having special powers

## *ZEMSTVOS*

Each province contained a number of districts *(uyezd)* and each district a number of townships *(volost)* In each of these units there was some self-government from the time of Alexander II A village had a meeting and elected an elder The elders of the volost met and formed a volost assembly In a district an assembly *(zemstvo)* was elected in three panels by proprietors, peasants, townsfolk These district zemstvos elected representatives without distinction of class to the provincial zemstvo It was natural from their wealth, leisure, and education that the landed proprietors should lead both kinds of assemblies, and in 1900 noblesse, officials, priests were 45 percent of the zemstvos, peasants 38 percent, townsmen 17 percent These bodies had charge of education, roads, health, poor relief and, after the inevitable initial blundering, did a reasonably good job The district zemstvo worked under the provincial body, the district courts and police under the similar provincial agencies, which were under the central government Each zemstvo elected an executive or bureau The towns also received councils (or revived them in some cases) with panels of three groups by income, and these councils elected executives Self-government of the localities was extensive and guided by the wealthy groups, as was to be expected in the Russia of the time [16]

## *JUSTICE*

The old system of justice, largely dependent on the proprietors, was also changed by Alexander II Each volost had a peasant law court for minor crimes and disputes, managed by the elders Over these were the justices of the peace, elected by the district zemstvo (or the town council) for three years under qualifications of property and education and confirmed by the Senate They had jurisdiction over obligations and civil injuries in which the sum at stake was not more than 500 rubles, and criminal affairs which required fines up to 300 rubles or one year's imprisonment Anyone with a complaint went to a justice and told his story, and the justice might fix a day and require the other party to attend On that day he heard the affair discussed publicly by the parties or their representatives and in a civil suit usually tried a compromise, or failing, gave a formal written decision In criminal cases he followed the criminal code An appeal might go to a monthly session of

[16] *Ibid*, pp 152-154

the justices of the district in the presence of an assistant of the public prosecutor, who would give an opinion for the benefit of the court This system resembled the petty and quarter sessions of the English counties

Above these amateur courts were the regular tribunals, with personnel of the legal profession if possible and appointed by the Minister of Justice Commonly each province had an assize court consisting of a president and two assistants, one for crimes and one for civil cases, using a jury for serious criminal cases only The provinces were grouped into twelve law circuits with an appeal tribunal in each, and above all was the Senate The lawyers formed a corporation like the associations of western Europe Each court had a public prosecutor on the French model, who investigated important cases and might order trial with consent of the appeal court [17]

The justices of the peace commonly gave satisfaction, but some of them neglected their duties For this and other reasons Alexander III (1881-1894) abolished the office except in the large towns and made it appointive in these He instituted land captains for the villages with administrative and judicial duties and chose professional magistrates in districts and towns The district magistrates took cases between non-peasant elements District assemblies of the magistrates of districts and towns, the land captains, and some officials took the place of the assemblies of justices Juries were restricted, the regular tribunals remained unchanged

## *EDUCATION*

Under the plans of Alexander II, elementary education was in the hands of the zemstvos and town councils with financial support from the state Secondary education was managed directly by the government, which charged small tuition fees, about fifty rubles a pupil a year The country was divided into educational circuits with a curator at the head of each, and all were under a Minister of Education Private schools were permitted under license In 1914 there were about 150,000 primary schools A plan of 1908 provided for general compulsory education within ten years, minimum pay for teachers, and loans to the councils to help with building and equipment The primary schools were in two groups, junior and higher with age boundary of eleven (seven-eleven-fifteen) Of these higher primaries there were 1339 in 1914 To provide the teachers, colleges and normal schools were set up to the number of 168 and 43 respectively in 1916 with 30,000 students Girls from the secondary schools were allowed to teach if they took short pedagogical courses

Secondary education showed development also In 1915 there were 797 classical schools (with languages) called gymnasia for 152,000 boys and 284 science schools (without languages and with stress on sciences) containing 80,000 boys For girls there were 965 secondary schools with 383,577 pupils

[17] *Ibid*, pp 223-227, Wallace, *op cit*, pp 586-590

and fifty others on the foundation of Empress Maria (widow of Paul I) with 14,000 pupils It would seem that girls were being educated rather than boys Some government departments had professional schools to the number of 220 in 1915 with 60,000 pupils Religious seminaries and schools, 431 in all, had 83,000 pupils, military schools to the number of thirty-three had 11,000 boys In 1916 there were eleven universities and many higher institutes of a professional nature which had a grand total of 150,000 students Fees were low, scholarships and bursaries abounded, government grants were generous, and needy boys and girls of any ability might attend, except Jews, who had a quota Nearly half of the students were of limited means [18]

This educational system was only a good beginning Fully three-quarters of the Russian people were illiterate Many of the national minorities had no literature, some had no alphabet, and the problem of educating the Russian peoples was one of great difficulty

## *PUBLIC HEALTH*

Public health presented many grave problems in old Russia The first census in 1897 showed a population of 130,000,000, by 1914 the number was about 180,000,000 The birth rate was high, 44 per thousand, but was partly offset by a death rate of 27 5 per thousand Nearly half of the children did not survive their first five years The chief causes of the mortality were poverty, insanitation, ignorance, and insufficient medical facilities The zemstvos did something, they had doctors on circuit to treat patients in outlying places, and medical centers with stationary doctors, nurses, dispensaries, and hospital beds But they had not nearly enough of anybody or anything There were thirteen medical schools in the country and only 23,000 doctors Persons with a little training called feldshers lent a hand Amateurs practiced the art, old women gave the benefits of their experience and limited knowledge, which in many cases verged on sorcery The bulk of the population knew nothing of professional doctors and accepted disease as the will of God or resorted to charms, processions in the name of some saint, sacred relics, or wonderworking icons The large cities had good doctors and hospitals, the country areas were getting a few by 1914, but Russia needed many times the medical personnel and equipment at her disposal [19]

## *ARMED FORCES*

Like other countries of the Continent, Russia based her army on the draft Men of age twenty-one were liable with numerous exceptions including many non-Slavs who paid taxes instead Only about half a million were called every year, they did three years in camp and passed into the first reserve

[18] Malevsky-Malevitch, *op cit*, pp 652-658

[19] Wallace, *op cit*, chap 5, gives an idea of the medical facilities

(twenty-four to thirty-eight) and the second (thirty-eight to forty-two) The army had seventy-nine field divisions before the war of 1914, it was weak in artillery and strong in cavalry, the least useful of the services as things turned out Mobilization was slow, requiring a month at least and produced 115 infantry and 38 cavalry divisions in the fall of 1914 with 7,900 guns of all sorts and sizes As the figures indicate, Russia was quite unable to use her resources in man power to anything like the full extent She had the men, tough and patriotic but mostly illiterate and slow of mind compared with westerners She had not enough industry to equip them or transport to move them about freely and remained at a disadvantage In the war she mobilized 15,000,000 men altogether but let most of them stand idle in camp or garrison for lack of equipment At the maximum, Russia had 155 infantry divisions compared with Germany's 236 in 1918 for a population two and a half to one in ratio (Russia, 180,000,000, Germany 70,000,000) There was a staff academy and a general staff which produced a number of good field commanders but could not make up for the deficiencies of all sorts The rules required much saluting and standing at attention

The Russian navy was a small affair, up to date in 1914 only in respect of destroyers (sixty-three) and submarines (sixteen) It had some old units—twelve battleships, six battle cruisers, eight light cruisers It had a fleet on the Baltic, another on the Black Sea, and some ships on the Pacific, all isolated and quite unable to help each other The Baltic fleet was much inferior to the local German fleet and did not venture on a general action The Black Sea fleet was superior to the Turkish fleet but unable to gain any great advantage from the fact The Russian navy could do no more than act as auxiliary to the army [20]

Russia of the pre-1914 era had many advantages and resources but little use of them The country was backward in many ways in techniques of agriculture and industry, in education and public health It had a heterogeneous population including some subject races like Poles and Finns who disliked the overlordship A passivity and inertness prevailed through the ruling classes and the church Non-Russians condemned the government as despotic, the last word in political argument at the time, critics of the present day stress rather its inefficiency The old Russia had many virtues but not those of a military and industrial civilization Her story since that time is the acquisition of some of these virtues at the hands of strange masters

[20] Malevsky-Malevitch, *op cit*, pp 243-252

Chapter 39

# The Russian Revolution

## *INDUSTRIAL REVOLUTION*

THE INDUSTRIAL REVOLUTION began to touch Russia after mid-nineteenth century and led to an expansion of industry and commerce Private Russians had not enough capital for large undertakings and accepted the aid of foreigners in industry and of the government in finance and transport Swedish, French, and British capital developed oil, British capital metal mines and textile mills, Belgian the coal mines on the Donets Nevertheless, ownership by foreigners was not a serious irritant in the body politic, and their technical skill proved a considerable benefit As always, Russia was the pupil of the west Textiles were chiefly Russian, produced in the Moscow area and Petrograd Coal came principally from the Don-Donets region (Donbas), metals from the Ukraine (Krivoi Rog) and the Urals, oil and manganese from the Caucasus The Moscow area had almost a quarter of the total industrial growth, Petrograd had textiles and the great Putilov steel works In cotton Russia held fourth place in the world in 1914, after Great Britain, the United States, and Germany, and was able to export to Near Eastern countries like Persia, using the produce of her own cotton fields in south-central Asia In industrial production as a whole Russia had fifth place, after the three countries named above and France, and was merely in the beginning of her effort The statistics of 1913 showed production as follows [1]

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|---|---|
| Coal | 29 1 million metric tons |
| Iron ore | 9 2 " " " |
| Pig iron | 4 2 " " " |
| Oil and gas | 9 2 " " " |
| Cotton | 2,224 million meters |
| Wool | 103 " " |
| Leather boots and shoes | 8 3 million pairs |

Russia also did a large export business in wheat and lumber, using Archangel as chief port for the second commodity

[1] E J Simmons (ed ), *U S S R A Concise Handbook* (Ithaca, 1947), p 267 One metric ton is 2204 622 pounds

Transportation accompanied industry Russia had 44,000 miles of railways in 1913, two-thirds state owned, and stood second in the world to the United States The chief line was the Trans-Siberian from Moscow to Vladivostok, about 5600 miles built 1892-1895, and included in the state-owned list Vodka was a government monopoly and a source of considerable profit The government had a state bank for banks Forty-seven private commercial banks had 743 branches, and there were more than 8000 state savings banks, cooperative banks, and mutual credit societies One-third of the budget was for state economic enterprises, and state ownership was a familiar feature of the economy

These developments brought an industrial working class into existence, recruited from peasants who came into town About 400 enterprises had a thousand or more workers, 18,000 had fifteen or more Workers in factories large enough to deserve government inspection numbered over 2,000,000 in 1913, others would probably make the total 3,000,000, about 1½ percent of the population Their women and children might multiply the total by three, to make 9,000,000 of a population dependent on factories Cities expanded rapidly, in 1914, 17 5 percent of the people counted as urbanites, half industrial, half commerical Technique was poor, often it took from two to five Russians to do the work of one western factory hand

## *FACTORY LAWS*

As in most industrial revolutions, hours were long and housing and sanitation bad Social security was absent except in so far as the worker provided it by his rights in the mir From 1882 the government tried to protect women and children in industry with partial success Hours had been fourteen to fourteen and a half, in 1897 the government set a day of eleven and a half hours (ten for night work), a minimum age of twelve for day labor, seventeen at night In practice by 1914 the ten-hour day was general In the twentieth century the government sought to extend the benefits of factory legislation more rapidly, it established accident compensation in 1905, the worker to get half-pay for temporary disablement, two-thirds pay for permanent disablement, and the employer to pay medical and funeral expenses The worker had a booklet containing the terms of his contract, his rights and duties If discharged, he might appeal to a court If negligent or bad in his conduct, he might be fined, the proceeds to go to the factory inspector to be used for the benefit of workers at large In 1913 the accident compensation was superseded by a new scheme of general insurance covering accident, illness, maternity, and death and paid for by employer and employee, the latter up to 2 percent of his wage Clubs were formed in factories to administer the plan, and had a million and a quarter members in 1914 This labor legislation was good for the time and place and was put into effect well in the great

centers, elsewhere unevenly as the government was not able to enforce all its policies [2]

For many years the government looked with suspicion on trade unions After 1900 it tried to organize some of its own and from 1906 legalized all unions fully

## *COÖPERATIVES*

Cooperatives were by no means unfamiliar in the old Russia In the nineteenth century, workers in trades like fishing, lumbering, and primitive mining formed combinations called *artels*, elected leaders, regulated production, and distributed profits Peasant handicrafts adopted the same plan, e g , in woodworking, flax, wool, hemp These associations needed money and tried to set up credit societies with indifferent success In 1895 the state bank came to the rescue, lent money to them and supervised their operations In 1917 there were 16,500 credit cooperative societies with 10,000,000 members

The peasants took to cooperation readily Agricultural societies bought machinery for their members or established hiring stations, where the peasant could rent a machine They traded in grain, beets, etc , and built elevators

Consumers' cooperatives flourished also and had 20,000 societies with 5,000,000 members in 1917 They formed a central union of Russian cooperatives, Centrosoyus for short, and a cooperative bank, and engaged in production of consumers' commodities All government units and personnel helped the movement with money or advice, regarding it as laudable in every way [3]

## *NIHILISTS*

By 1914 the working class was in the second or third generation and well urbanized It was largely literate, patriotic, and religious, but, unsettled in its new conditions, it had not acquired a stable mentality and was open to suggestions from socialists of several sorts As in other countries, industrialism was shadowed by socialism

The first revolutionary movements, however, were not precisely socialist in inspiration The reforms of Alexander II stirred aspirations of many sorts among young Russians of the educated groups and roused hopes of a Utopia around the corner Some of these young men and women stayed at home and read Western radical literature, others went abroad to study and had the ideas at their source These were the early intelligentsia whose numbers rose with every improvement in educational facilities Enthusiastic and impractical, they were the theoretical politicians of Russia and specialists in agitation and turmoil for fifty years A number were pure liberals and looked forward to the franchise and an assembly, a few, like George Plekhanov, took to

[2] P Malevsky-Malevitch, *Russia—U S S R* (New York, 1933), pp 586-590

[3] *Ibid*, pp 572-577

Marxism These ideas seemed old-fashioned to many students of both sexes who found their prophet in Michael Bakunin, himself a Russian and founder of anarchism Bakunin was against property, the family, religion, government—in short, all political and social institutions He had a large following among young Russians excited by his promises of a perfect world Bent on destruction, they had no need of construction and earned the name *Nihilists*

They engaged in agitation within and without Russia, published papers or smuggled them in, and tried to "enlighten" the people The government had little sympathy for their efforts and replied by arrests, exiles to Siberia, and a mild censorship of the press The Nihilists took jobs as teachers, medical assistants, factory hands, assumed names other than their own and continued the contest with the police They won few adherents among the peasants, who considered them hardly right in the head, and in fact never had serious influence One or two groups, like the *Will of the People*, took to a war on police and officials and indulged in shootings and bombings They made Alexander II their pet target and after several failures assassinated him March 13, 1881, on a street in Petrograd The leader of this affair was a young lady, Sophia Perovskaia, who ought to have known better

Alexander III, successor to the throne, naturally adopted a policy of repression The police rounded up the plotters and placed them on trial One had perished in his own explosion, five others were executed, all undoubtedly guilty, and the rest went to jail or Siberia The revolutionary societies lost whatever public sympathy they had and fell to pieces The Nihilists as a group realized that they were on the wrong track and abandoned their efforts, save for a lunatic remnant and its feeble and futile plotting Later revolutionaries have raised the Nihilists in retrospect to the position of fathers of the Russian Revolution but would certainly treat them less leniently than Alexander II if they were to take flesh once more and repeat their tactics against Soviet Russia [4]

## *SOCIAL DEMOCRATS*

A new start was made by George Plekhanov, who had been left quite on the side in the Nihilist excitement He had formed Marxist study groups as early as 1883, he admired the German Social Democratic party and in 1898 succeeded in forming a Russian S D party like it, to proceed by persuasion, obtain social reforms, and join in liberal demands for civil rights and a constitution The group published a propaganda sheet, *Iskara*, from abroad, chiefly in Germany Presently a young man named Vladimir Ilich Ulyanov, better known as Nikolai Lenin, came to the front with a proposal to change the nature of the party He wanted a society whose nearest existing model was the Jesuit order, to be under discipline, at the command of a chief, and

[4] Sir D M Wallace, *Russia* (1912), chap 34

to be in fact a conspiracy to take over the government in a moment of crisis The party would then forget liberalism and set up a dictatorship

**Bolsheviks and Mensheviks**

At a congress in London in 1903, Lenin had a majority of the few delegates able to attend and gained the name Bolshevik for his group (majority) as against Menshevik (minority) for the others Most of the rank and file were for the Mensheviks, and when Lenin tried to take control of *Iskara,* these put him off the editorial board In 1905, out of 34,000 members of the party 19,000 were Menshevik, 15,000 Bolshevik The two wings remained attached loosely to each other and did not separate until 1917 Lenin continually gained prestige for his intellectual ability and remained on the party payroll as organizer of propaganda, living at various times in Germany, Austria, Switzerland

## *SOCIAL REVOLUTIONARIES*

About 1894 a new group came into existence, the Social Revolutionaries, who absorbed the relics of the *Will of the People* They professed allegiance to Marx and did enough work in the towns to gain a large influence among the workmen, but cast their eyes on the country, took up the demand of the land for the peasants, and became a peasants' party Some of them encouraged the peasants to seize the land of the proprietors at every moment of disturbance, others renewed the terror against cabinet ministers, officials, and police They had only a loose organization and worked much by themselves, and from the peasantry they absorbed Russian and Slavic patriotism With time and a settlement of the land question they could have become a conservative group with a touch of social reform, but never overcame their lack of solidarity Besides these revolutionary groups there was a genuine liberal movement based on the proprietors and professional classes and supported by the zemstvos Even without a constitution, Russia had the elements of a multiparty system

## *REVOLUTION OF 1905*

The failure of the Japanese war, 1904-1905, encouraged criticism of the government and demands for changes The zemstvo liberals held a conference in November, 1904, presented a long list of suggestions including civil rights and an assembly, and won the applause of the professional classes The Czar issued a discouraging statement In January, 1905, occurred a strike in the Putilov works in Petrograd over the dismissal of some workmen These men had strong support, they belonged to a Society of Russian Workmen, organized by Father George Gapon, a labor agent of the government He tried to obtain reinstatement for them and failed Excitement grew, the Social Democrats and Social Revolutionaries took a hand, and the former put forth

large political demands Gapon, a vain and excitable man, feared to lose his union and invited S D 's and S R 's to join with him in a procession to the Winter Palace to inform the Czar of the workmen's troubles The Minister of the Interior, Prince S Mirski, was a well-meaning liberal and supine enough not to interfere while the agitation mounted to a climax He permitted preparations to go on, although Gapon was indulging in violent revolutionary expressions, boasting of the bombs promised by the S R 's and talking of the overthrow of the government On January 22, 1905, Mirski allowed the paraders to form and proceed and could think of no way to divert them They encountered troops, who fired, and killed and wounded about 400 persons on this well-known Bloody Sunday [5]

This affair set off the revolution of 1905, a confusion of strikes by workmen, land seizure by peasants, conflicts among races and nationalities, and the mutiny on the vessel *Potemkin* on the Black Sea The S D 's and other socialist groups formed a council or soviet in Petrograd and called for strikes and a revolt in Moscow The government showed singular indecision and made a vague promise of a duma or assembly In October, 1905, Count Witte returned from the United States where he had been negotiating the Peace of Portsmouth with the Japanese, he took the helm On October 30, 1905, he promised a duma on a wide franchise and with legislative powers He abolished the remaining peasants' annuities, dispersed the soviet, and by the end of the year had put down the disorder In successive manifestoes he defined the power of the Duma and reserved the cabinet, the armed services, and finance to the Czar On these matters the liberals divided Some accepted them, content with the name Octobrists, a good many, led by Professor Paul Milyukov, thought them sadly insufficient This group formed the Constitutional Democrats or Cadets and wanted a parliamentary monarchy like the British at once One of them rejected with contumely Wallace's suggestion that, as the British had taken several centuries to reach that constitution, the Russians might wait eight or ten years [6]

## *WITTE AND STOLYPIN*

Witte also devised the upper house, the Council of Empire He set the meeting of Russia's first Assembly for May 10, 1906, and expected to manage it himself But in a moment of inadvertence he offered his resignation and to his dismay saw it accepted The new Prime Minister was a civil servant named Goremykin Taking office on short notice, he met the Duma with empty hands and soon learned that the Cadets were in control There was plenty of work for the Duma to do, a series of bills to modernize the country could have kept them busy for years and had the cooperation of the cabinet But they thought theory more exciting and demanded a parliamentary mon-

[5] *Ibid*, chap 38
[6] *Ibid*, p 728

archy Failing, they took up the land question, and at this point the government dissolved them, July, 1906 Two hundred deputies fled to Vupuri in Finland and issued a manifesto calling for a tax strike, but failed completely

One minister had distinguished himself through the revolution of 1905 and later in the Duma for his courage and ability Peter Stolypin Nicholas made him Prime Minister in place of Goremykin and called a second Duma in March, 1907 Stolypin tried to manage the elections and succeeded in excluding the Cadet leaders at the price of worse The Socialist groups were the leading elements in this Duma, the S D 's uttered threats and planned a popular rising against the government Stolypin dissolved the Duma, June 16, 1906, and went to work on a third He raised the qualifications for the franchise and altered the system of representation to give the majority to landed proprietors and merchants and so had an Assembly in which the Octobrists were the chief element, led by A I Guchkov Things went much better in this, and also in the fourth Duma, 1912-1917 Russia was learning the lesson that legislatures are for practical work rather than arguments on theory and do much better with a cautious start Neither Cadets nor Socialists were fit to manage the government, the Cadets would have had chaos, the Socialists a dictatorship [7]

Stolypin was busy out of Petrograd at the same time He repressed the terrorists with field courts-martial and shootings, he prepared the ten-year plan for universal and compulsory education He encouraged the peasants to break up the mirs and take their holdings as private property in blocks A good many did so and presently a quarter of the land was in single holdings These farmers worked hard on their land, made money, and justified Stolypin's policy The revolutionary parties were venomous about him, seeing the ground cut from under their feet But he did not live to complete his work, he fell a victim at Kiev in September, 1911, to a man who was an S R in the ranks of the police So came to an end the Mirabeau of the Russian revolution

## *RASPUTIN*

Never again was Nicholas able to find a servant as capable as Witte or Stolypin The government drifted, in 1914 Goremykin was Prime Minister again and Sazonov Minister of Foreign Affairs In the background stood the figure of Gregory Efimovich Rasputin (1871-1916), the new kingmaker This person, a peasant from the Tobolsk region, claimed to be a healer and a prophet He had lived for a short while in the peculiar religious community at Verkhoture but had taken no vows and held no kind of commission from the Orthodox Church, for which reason the description of him as mad monk is only half true He posed as a *staretz* or wandering holy man but found his real vocation in riotous living, and impressed on his disciples the religious duty of indulging the weaknesses of the flesh He had cleverness enough to impose

[7] *Ibid*, pp 735-737

on educated people for a short time and, coming to Petrograd in 1907, had an opportunity in a trouble of the royal family In 1904 Nicholas and Alexandra had managed to add a boy to their family of four daughters but to their dismay found that he suffered from hemophilia and was constantly in danger Despairing of doctors and even of magicians, they were willing to try Rasputin He obtained the confidence of little Alexis and saved him, to the great gratitude of the Czarina Rasputin was soon a known friend of the family, had money from persons who supposed he could aid them at court, and indulged in wild debaucheries to the disgust of ministers, officials, and churchmen Even in court circles the impression grew that the Czar who could tolerate such a person was not fit for his job The impression was justified only in part, Nicholas paid little heed to Rasputin in matters of high policy but laid himself open to the suspicion [8]

## *WAR OF 1914-1918*

In 1914 came the war Russian diplomats had secured strong allies in France and Great Britain, had won public opinion by their stand on behalf of Serbia and Slavdom, and eventually had the promise of Constantinople from the western powers The war was exceedingly popular, even the S R 's put their bombs in storage and played a patriotic role Only Lenin and the Bolsheviks worked for their country's defeat and he was in Switzerland during most of the war Russia's military leaders like the commander against Germans and Austrians, Grand Duke Nicholas, were reasonably good, but her industries could not stand the strain of modern war After the original equipment was used up, 1914-1915, the forces were lamentably short of arms and ammunition They suffered heavy losses in 1915 and gave up to the Germans all of Poland and the Baltic coast to Riga Subsequent efforts could not be sustained, and Russia played little part in the war The soldiers, normally patriotic, were sick of fighting without weapons Geography was unfriendly to Russia and made it hard for her allies to help her From 1916 they sent equipment in quantity and Russia was building up her own war industry but too late to avoid the catastrophe The government kept many millions of soldiers in camp or garrison with little to do and had potential trouble on its hands

The people resented the defeats and blamed the government Czarina Alexandra had the unhappy thought of removing Grand Duke Nicholas and putting her husband in command, and Nicholas had the bad judgment to take the advice and go to headquarters in White Russia He was no soldier and accepted the advice of his chief of staff, but as nominal commander had the blame for lack of success What was worse was that his wife was in charge of the government She knew nothing of politics and turned to

[8] R Fulop-Miller, *Rasputin*

Rasputin, who knew less, discharged the capable ministers, and put in incompetents in rapid succession The Duma protested and asked for a ministry which they could support, but Alexandra refused every suggestion Prince Yusupov, husband of the Czar's niece, headed a conspiracy and killed Rasputin, December 30, 1916 Even this evidence of deep dissatisfaction was lost on the government The highest personages of the land were considering how to be rid of Nicholas, on the other hand, some reactionaries thought of a peace with Germany to forestall concessions to the liberals

## *REVOLUTION OF MARCH, 1917*

Early in March, 1917, food riots occurred in Petrograd—needlessly enough, for there was plenty of food on hand, merely badly distributed The city was full of troops doing nothing They began to side with the people and, inspired by S R 's, formed a soviet of delegates of workmen and soldiers with a vague idea of helping the Duma On March 11, that body appointed a provisional committee whose chairman was the president, M V Rodzianko He telegraphed to the Czar to ask again for a Prime Minister with the confidence of the country, tried again on the twelfth and had no answer The committee transformed itself into a provisional government and appointed a set of ministers The first Prime Minister was Prince G Lvov, the Minister of Justice was Alexander Kerensky, representing the S R 's They sent a delegation which met Nicholas at Pskov and requested his abdication He abdicated for himself and his son and had not the wit to ask to be sent to England as a condition, which would undoubtedly have been granted The dynasty fell accordingly by pure lack of a policy on the part of its last representative Had he grasped the hand of the Duma, the Romanov family might yet be occupying the throne of Russia

The provisional government now had its chance and money and encouragement from its allies, soon to include the United States It set elections for a constituent assembly on the basis of adult male suffrage It recalled all exiles abroad and in Siberia without distinction between those who would help the war and those who would hinder it It granted independence to Poland and raised the hopes of all other subordinate nationalities It abolished the death penalty in the army, declared that soldiers shared all civil rights and accepted an Order No 1 of the Petrograd Soviet which destroyed the authority of the officers of the army It asked the people to organize local governments as they chose and so gave a free hand to agitators and soviets, which sprang up in all the cities Finally, it abolished the police, on the ground that they had been the enemies of the workers Never was a government so eager to make itself helpless, by contrast it made Nicholas appear the embodiment of sanity and efficiency Russia was in a political vacuum, open to any adventurer

## *LENIN*

The candidate was Lenin, who responded to the recall and obtained permission from the German government to return across their country He found the S D party inclined to support the provisional government and play a patriotic role, and put a stop to this at once, seeing at hand the moment of his dreams He denounced the government, preached peace for the soldiers, land for the peasants, factories for the workers, and all power to the soviets These for the time did not want it, being dominated by the S R 's, but Lenin judged that they could be won by hook or crook The government made only feeble efforts to silence him, they scared him off to Finland in July with little difference to their difficulties The peasants commenced to seize the land of the proprietors, who made practically no resistance Many soldiers hastened home to share the new property Workmen began to take over the factories and slowed or stopped their operations while the middle class stood by in a daze

## *BOLSHEVIK REVOLUTION*

The Bolshevik party, some 80,000 strong in April, separated itself definitely from the Mensheviks, recruited workmen and soldiers of the garrison and claimed 200,000 members in August, 1917 It failed to control a first congress of soviets in June but tried again with the local soviets and by means fair or unfair got them in its power and planned a second congress for November, 1917 The government passed into Kerensky's hands but he could do nothing with it Lenin returned from Finland in September, 1917, and gave the signal for revolt Trotsky organized Red Guards and with only a slight effort seized the government buildings on November 7, 1917. In Moscow there was resistance, overcome with some difficulty, in the other cities none at all The second congress of soviets was meeting at the time and nominated Lenin and Trotsky heads of the Soviet government The Constituent Assembly met in January, and as soon as Lenin saw that it was largely S R (the Bolsheviks having only 168 delegates out of 703) he dispersed it by force and ruled nakedly as dictator A moment of alliance with a few extreme S R 's ended and left the Bolshevik party masters of one of the greatest countries of the world, to everyone's surprise including their own Never was a revolution more the work of one man Lenin had to fear not the paralyzed provisional government but some other adventurer who might think the prize worth an effort before he could seize it As matters turned out he had the field to himself [9]

[9] Sir B Pares, *A History of Russia* (New York, 1947), chap 24

## *COMMUNIST THEORY*

Lenin had his political ideas out of the Communist Manifesto and never managed to outgrow them To him the central factor in the life of man was production and exchange, which determined practically all human activities The capitalist method of accomplishing these things served only the wealthy minority and injured the working class in many ways It robbed the worker of his earnings and refused him education, protection of health, a share in the good things of the world It was incapable of developing the resources of the world adequately or of distributing goods for the benefit of the majority It had within it the elements of its own destruction, it was engaging in imperialist wars which would lead to revolution and transfer of power to the working class under guidance of the Communist party These ideas he held not as forecasts open to discussion but as absolute and self-evident truths, and the doubter he set down as an enemy doing an injury to a sacred cause In this view, the cause became more important than the humanity it was supposed to serve It was an idol to which Lenin was ready to sacrifice human beings by the million Starting with a hope to help human beings, he was ready to proceed by destroying them on a scale of which the worst capitalists had never dreamed He had invented nothing in this mental process, he was merely following the Inquisition and the Jacobins The root of the distortion in all cases was a kind of egoism, that the guardian of a sacred cause knows better than other people what is good for them, that he is adult and they are children and he must coerce them for what he considers to be their own benefit The theory is aristocracy and privilege with a vehemence and ruthlessness of which the feudal classes never dreamed

With these ideas it was natural for Lenin to decry democracy, which he qualified as formal He declared parliaments to be a delusion behind which real power rested with the capitalists and the armed forces, but only because he had failed to win appreciable support in elections The statement that parliaments were a sham was itself a sham Failing to persuade the masses, he would coerce them On dissolving the Constituent Assembly, he stated, "We shall tell the people that their interests are superior to the interests of any democratic institution We must not return to the old prejudices which subordinate the interests of the people to formal democracy" In short, he and not the people was the judge of their interests, like Louis XIV in his time [10]

Nevertheless, he considered the people to be capable of "real" democracy in the future when they should absorb the right ideas and be brought up in the way they should go He talked of free elections, recall of officials, equality of salaries and labor, and the withering away of state power in due course

[10] J Fineberg, *V I Lenin, Selected Works* (London, 1936-1938), vol VI, p 439, D J Dallin, *The Real Soviet Russia* (New Haven, 1948 ed ), pp 32-33

of time, and he planned the substance of dictatorship and the forms of democracy, thereby indulging in the pretenses of which he was so fond of accusing capitalism

Accepting materialism as a philosophy, he was against religion and agreed with Marx that it was the opium of the people, a characteristic expression of impatience and contempt for the people's opinions and preferences He considered religion unscientific in the light of the Darwinian theory, the great novelty of his youth beyond which his biological learning never went He considered religion also a bulwark of capitalism and to be decried on that account Nevertheless he recognized its hold on the people and was ready to allow it a limited place as a necessary evil He planned to keep the chief means of communicating ideas, the press, films, stage, posters, and later the radio, in the hands of the state to assist the Communist monopoly He seems to have realized that modern inventions facilitate the power of the few to impress their will on the many and make mastery of men's minds and bodies much easier than at any time in the experience of the race

# Chapter 40

# *Communist Rule*

## *BASES OF SOVIET STATE*

THE BOLSHEVIKS proceeded to establish the bases of the Soviet state so far as a flood of decrees could do it They declared land, factories, commercial and financial institutions national property with some hesitation about the smaller factories Dividends and shares were illegal, debts repudiated Private trade was abolished in favor of consumers' cooperatives and government stores The currency was inflated away Labor was compulsory and at the disposal of the government Rationing began and food was distributed by categories, manual workers having the preference The church was separated from the state and from the school and lost its property to the state There would be no religious ceremonies at state functions and no religious teaching in schools, but provision was made for religious services The name of the party became Communist, the capital was moved to Moscow, the Western calendar adopted The old judges were removed at the least sign of opposition, new ones appointed to please the party, and laws voided if they crossed the wishes of the government A secret police, the Cheka, was set up under Uritsky, and when he fell to an assassin, under the well-known Pole, Felix Dzerzhinsky The Red Guards were transformed into the Red Army in February, 1918

The war with the Germans, a nominal affair for the greater part of a year, remained to be disposed of Lenin and Trotsky concluded a disastrous peace at Brest Litovsk in March, 1918, giving up the four Baltic states, Poland, the Ukraine, the Caucasus to a fictitious independence and actual occupation by the Germans, and to cap it all, they paid an idemnity This treaty was annulled by the Treaty of Versailles and the German troops were withdrawn, but the Baltic states (Finland, Estonia, Latvia, Lithuania) and Poland remained independent by their own wish and consent of the western powers Russia had lost 30,000,000 people, several industrial centers and her ice-free ports on the Baltic, i e , the acquisitions of Catherine the Great and some of Peter

## *WARS WITH WHITES AND POLES*

The peace with the Germans did not end the military troubles of the Soviet state Groups of S R 's attempted risings, one of their number killed Uritsky and another, Dora Kaplan, fired at Lenin in Red Square and lodged a bullet in his spine, from which he never fully recovered The Cheka took the S R 's in hand and repressed them with many executions The western powers during 1918 occupied Murmansk, Archangel, and, with Japan, Vladivostok to safeguard the supplies they had delivered there Some czarist officers and S R 's started revolts in Siberia, the Ukraine, the Don-Kuban country and had help from the Allies, who hoped to revive the war in the east The ensuing struggle is known as the Red-White civil war, the Reds being the Communists, the Whites their opponents For some time the contest seemed equal, but after the end of the war in the west the Allies withdrew their troops from the Russian ports and gradually stopped aid to the Whites The peasants of Great Russia feared to lose their newly won land if the Whites returned to power, and supported the Reds These had the munitions factories and the enthusiasm of the factory workers in their favor and were able to build up forces which defeated the Whites and reoccupied their territories In 1920 the Poles invaded Russia to recover lands lost in the eighteenth century and reached Kiev The Red Army was able to drive them back to Warsaw, but here the Poles rallied with French help and compelled the Russians to withdraw Lenin concluded the war with another disadvantageous peace at Riga in 1921, giving the Poles large areas of White Russia and the Ukraine containing 10,000,000 inhabitants[1] A by-product of the war was the Red Terror which may have killed 50,000 persons, including the late Czar and his family

## *MILITARY COMMUNISM*

In the interval, Russia had experienced the first taste of socialism, called military communism by official apologists The theory was that the peasants, having the use if not the legal ownership of the land, would give their surplus to the government in return for manufactured goods But the government could not supply the goods, it gave priority to the war, had a poor knowledge of other industry, and found transport in a bad condition Industrial production went down to one-seventh of the figure of 1913 The population was the worst off in Europe, it suffered from malnutrition, typhus, and cholera and from lack of fuel in the winter A third of the people of the cities fled to their relatives in the country for shelter, warmth, and food The peasants, getting few, bad, and costly manufactured goods, reduced production by about a third and almost stopped growing nonfood crops The government sent forces to requisition foodstuffs from them and entered on a contest of

[1] Sir B Pares, *A History of Russia* (New York, 1947), p 485, gives 10,000,000 Other sources vary the figure.

wits which further reduced supplies The culmination was the drought and famine of 1921, in which perhaps 5,000,000 people perished That others were saved was due primarily to the generosity of the Congress of the United States and the work of the American Relief Administration, which had scant thanks from the Communists

Even before the famine, Lenin had decided to change policy In March, 1921, he announced the New Economic Policy, whose initials make NEP in both Russian and English He abolished the compulsory labor and the irregular exactions from the peasants and promised them a tax fixed in advance and freedom to rent land, hire help, and grow what they liked He restored the ruble, permitted private trade and light industry, and offered temporary concessions to foreign capital, which proved reluctant to accept them The government retained heavy industry, banking and finance, foreign trade, and transport and kept a monopoly of political power and the transmission of ideas The Communists began to call this regime state capitalism and set up a state planning commission, Gosplan, to manage it They brought out a new constitution in 1924 and made many changes in administration and in central and local government

## *NEW ECONOMIC POLICY*

The NEP flourished from 1921 to 1928 It restored industrial and agricultural production to something like the level of 1913 for a larger area and gave the Communists experience in the management and techniques of industry The quantity and quality of consumer goods remained low in the interest of heavy industry, and prices were high, two to three times the prewar figures The cost of living in Russia in 1927 as compared with 1914 was 221 to 100, in the United States 173 to 100, in Great Britain 168, in Germany 148, and in France 107[2] Retail trade was carried on partly by the government, partly by cooperatives, and partly by private persons, the nepmen The ruble, officially two to the dollar, was four or five on the black market, not a serious depreciation Lenin suffered a stroke in 1922, ceased to manage the government, and died in January, 1924 Trotsky entered a contest with Stalin over the leadership and over Communist policy, desiring to stake everything on world revolution Stalin, while liking the objective, held that it was too far away and called for socialism in one country, his own He was secretary general to the party, had built up a personal following within it, and was able to dominate successive congresses and to exile Trotsky At that point he determined that the NEP had done its work and embarked on the industrialization and communization of Russia in the five-year plans

[2] W H Chamberlin, *Soviet Russia* (Boston, 1930), p 142

## *EXPERIMENTS IN EDUCATION*

The comparative freedom of the NEP encouraged experiments in what was thought to be freedom in education, religion, and the relations of the sexes Lunacharsky, Commissar of Education in the 1920's, instructed the city schools to discard drill, memory work, tests, examinations, reports The pupil was to do a project in a subject and learn by working at it The teacher was there merely to advise and would overlook manifestations of self-expression like talk and play in schooltime A teacher was not permitted to use physical punishment The pupils would elect a soviet, discipline themselves in it, and edit a wall newspaper Greek and Latin were abolished in the elementary and secondary schools, history and economics were heavily Marxist and international, stressed class movements, and minimized the role of persons Communism was taught in all classes, and antireligion, with irregularity of enforcement No grades were given to individuals, to discourage rivalry and egoism Cooperation and team play were the approved methods in work and recreation

By the end of the 1920's, however, this anarchism had proved ruinous to education The pupils could not read, write, or spell well, were particularly poor in mathematics and science, and could do nothing that required sustained effort, as unfortunately so many things do among the activities of humanity They were not fit to operate industry in the five-year plan and compared badly with the exactly trained foreign experts Accordingly, in 1932 the old system was revived in essentials, with examinations, tests, reports, drill, memory work, and the authority of the teacher History and economics, still Marxian, allowed a great deal to the efforts of individuals Again it was the fashion to praise the great figures of Russia's past and even the Czars if they had expanded the power and boundaries of Russia Since that time, Russian schools have resembled those of other countries, *mutatis mutandis* [3]

At the same time, a great effort was made to liquidate illiteracy Schools and teachers multiplied, and adults learned to read, by classes in factories, farms, commercial institutions, units of the armed forces, prisons All facilities for education were greatly expanded during the five-year plans to 1940 By that year Russia had a vast array of elementary and secondary schools and institutes of higher learning and was teaching the minor nationalities their own languages, sometimes beginning with the invention of an alphabet The buildings were often makeshift but served the purpose, and by 1938, 89 percent of the population in the towns were literate, 75 percent in the country if official statistics were correct [4]

[3] W H Chamberlin, *The Russian Enigma* (New York, 1943), pp 107-108

[4] The common test of literacy is the ability to write one's name Some people can do this and little else in the realm of reading and writing, and might require a deduction of 5 percent from these figures

## *ANTIRELIGION*

During military communism and N E P, the church had undergone an experience which has given much notoriety to Soviet Russia After the revolution of March, 1917, the Orthodox Church held a congress and with permission of the provisional government elected the first patriarch since 1700, Tikhon, who had been metropolitan of Moscow After the revolution of November, the Soviet government put out its new regulations about religion and closed the academies, seminaries, and religious houses except a few which managed to survive with subterfuges about communal ownership on the part of the inmates and some connivance on that of officials The government allowed a group of twenty or more parishioners to use a church on payment of a tax and to hire a priest But he lost his franchise by the early constitutions and had the lowest priority for food and lodging, which meant often sharing with generous members of the flock in the towns In the country, the change made little difference, the priest continued to live in his own house and to use his own plot of land He might not collect tithes but had offerings from the people in their stead

The worst was yet to come, the government issued a set of regulations at intervals until 1929 which formed a comprehensive antireligious code No instruction might be given to persons under eighteen in groups of over three Religious societies might not engage in business or charity, grant credit or financial help to their members, hold prayer meetings or study circles, keep playgrounds or libraries except for service books This code was severe and could not be enforced except partially and locally Lenin tolerated evasions and permitted the churches a few publications, confined strictly to religious matters and the only independent press in Russia Of these there were about forty in 1929, chiefly monthlies and restricted to circulations of four to five thousand by rationing of paper

The church leaders were horrified at the first actions of the atheist Bolsheviks Patriarch Tikhon excommunicated them to little effect and conjured the people to have no association with them In the civil war the priests often were for the Whites and suffered death, confinement, or exile At the end of the war an informal truce seemed likely but vanished before events attending the famine of 1921 Tikhon offered the nonsacramental church plate to the government as security for loans abroad to buy food The government merely ordered confiscation of all church plate and vessels not used in services Tikhon encouraged popular resistance to the seizure and thereby brought about over 1400 conflicts which were stopped summarily with executions and exilings The government arrested many priests including Tikhon The Roman Church had suffered in the same way and some of its leaders were arrested also, like Archbishop Cieplak and his aide Monsignor Budkiewicz The Protestant churches had little treasure and were hardly affected by the

decree The government threatened to execute its prisoners and may have killed some, like Budkiewicz, but halted before world-wide protests and presently released Tikhon and Cieplak Tikhon declared his repentance and intention no longer to be an enemy to the Soviet state, and he performed his duties until his death in 1925 A synod could not be held to elect a successor, and after a number of substitutes had served, Sergei the metropolitan of New Novgorod became acting patriarch

To add to its difficulties, the church had a schism. Some clergy organized the Living Church to bring it up to date in such respects as service in modern Russian and marriage of bishops The government looked on this movement with some favor at first and permitted it two seminaries whereas the Orthodox Church had none The body of churchmen, however, feared to break ties with world orthodoxy and preferred old practices, and the government came around to the same view In 1927 it recognized Sergei as head of the church and let the Living Church shrink until the remnant returned to orthodoxy

The government claimed that it observed neutrality toward the church, but it required atheist teaching in the schools and an atheist tone in the press, the radio, films, and the stage and so belied its own statements It handed over the task of antireligious propaganda to a Union of the Godless, whose secretary and moving spirit was Emilian Yaroslavsky This group had publications like the weekly *Godless*, it denounced and ridiculed religion as antiscientific in itself and a cover for political reaction It opened museums, often in former churches or religious houses, to give ocular demonstration of Darwinian theories, of the false relics and claims of the church and its complicity in oppression of the workers in czarist times It got up campaigns to close churches by votes of localities and often succeeded, it organized youth processions to ridicule Christmas and Easter It induced a rewriting of school texts to show that the introduction of Christianity to Russia was a disaster, and it created a series of alleged educational institutions in antireligion Much of this propaganda was abuse and defamation, much perfectly childish, much a fraud on biology At its height, the Union of the Godless claimed 600,000 members, a circulation of 170,000 for the weekly *Godless* and of 80,000 for its monthly

Probably most of the churches operated in some fashion until 1929 The five-year plan called for a renewed attack on religion and delivered it with vigor from that year to 1936 The antireligious code was reissued and enforced in so far as local sentiment permitted The volume of antireligious propaganda increased greatly, the campaign to close the churches reached new heights and converted many into storages, theaters, stables, workshops, granaries, dwellings All who shared in services were harassed in many ways Priests were arrested by hundreds and shipped off to concentration and labor camps A few choir girls were sent to Turkestan, some young men studying privately for the priesthood, and sometimes entire church boards, suffered the

same fate A former princess was arrested for reading the Bible to a group of peasants but released at the intercession of the British Embassy A variation was a tax on churches, unreasonable in amount and time of payment Church publications were stopped, Christmas cards and trees were forbidden Never had the Orthodox Church so bad a time, it was reduced to 4225 functioning churches, 9000 clergy, and 37 religious houses In Magnitogorsk John Scott saw not a single religious institution of any kind and only one sign of religious personnel, a group of forty or fifty priests doing pick and shovel work under guard of a uniformed man with a rifle Perhaps a minor evil was a change in the week, to five and later to six days, which prevented working people from attending church on Sundays

Acting Patriarch Sergei had learned a lesson from the experience of Tikhon and was careful not to incite resistance He confined himself to protests to the government and bowed his head to the storm in the hope that it would pass The hope was justified, atheism is too cold and negative a creed to hold many followers, and religion has too deep an appeal to human nature to be obliterated In some measure the church was responsible for the falling away, it had not taught the people effectively, it had neglected the Bible, and it had tolerated some patent frauds in the name of religion It had made at least this gain, that it repudiated the frauds and learned the value of teaching Whether the lesson was too expensive, time will tell

The other churches did not suffer nearly so much The Jews and Protestants had the Bible to fall back on, the Roman Catholics had their belief in the authority of the clergy At the end of the repression there were 1011 synagogues, 2559 rabbis, and 1744 Roman Catholic churches, 2309 priests Statistics for the Protestants are not available but from the sequel would tell a similar story The atheistic attack on Christianity is probably the most spectacular, futile, and childish episode of Communist rule in Russia [5]

## *MARRIAGE*

Marriage had undergone a similar experience Many continental socialists had decried it as bourgeois and a survival of property right in the person, as well as a restraint on impulses Lenin did not himself share these ideas and was a model husband to Krupskaya, and the other leaders, like Trotsky and Stalin, appear addicted to this bourgeois habit They did not impose their views on their followers, however, and sanctioned a heavy assault on marriage as an institution The ceremony was a registration at a bureau called ZAGS and two signatures to a certificate, of which a copy went to the

[5] W H Chamberlin, *Russia's Iron Age* (London, 1935), chap 16, S P Turin, *The USSR An Economic and Social Survey* (New York, 1944), p 23, P B Anderson, *People, Church and State in Modern Russia* (New York, 1944), John Scott, *Behind the Urals* (Boston, 1942), p 86

bride and groom Divorce was even easier, one party might have it by sending a post card to the bureau, which would notify the partner It was thus possible to break matrimony without the painful discussions common in western countries Common-law marriages had the same standing as the registered ones, and the children were equally legitimate Abortion and birth control were encouraged by public propaganda In the cities, casual relations were common, and films sought to overcome the reluctance of husbands to tolerate the association of their wives with other men

Objections to these practices on the score of Christian morality had no weight with the Communists, but in the long run two practical consequences demanded attention Many children were neglected and deserted, hordes of waifs wandered the streets and became juvenile delinquents, far too many for orphanages and shelter institutions to absorb The rate of abortion went up startingly and the birth rate went down in the cities to twenty-two per thousand This was a threat to a nation which needed population for the five-year plans and for defense of the country The high Communists decided to change policy and announced it to the world through an editorial in *Pravda* to the effect that free love and sex disorder were completely bourgeois and had nothing in common with socialist principles or the conduct of a Soviet citizen

From that time the tone of official propaganda changed entirely Marriage was praised as useful to communism and the state, official advice was to get married early and stay married Abortion and birth control were permitted only on medical advice, to save the mother's life Post-card divorces passed away, now a couple must appear before a people's court which will try to reconcile them If it fails, they must go to the next higher court, satisfy it, and pay fees Subsequent divorces are penalized by heavier fees, and only registered marriages confer legal rights Romance is in fashion again, boys write poems and present flowers to their sweethearts Marriage is no financial problem, both parties continue to work after it and apply to the local soviet for a room It takes place at ages eighteen to twenty and leaves the unmarried person of twenty-six an uncomfortable rarity The common sort of prostitution is reduced almost to the vanishing point, the official sort, to extract information from foreigners, continues The birth rate is again forty-seven per thousand, the highest in the civilized world Women smoke less than in western countries, share in athletics, and look after their health [6] Marriage has found its place in the socialist system and is providing the population which Russia needs and can sustain

[6] M Hindus, *Mother Russia* (New York, 1943), pp 70, 270 V Gsovski, *Soviet Civil Law* (Ann Arbor, 1948), pp 122-125, deals with divorce procedure The author remarks that it is more difficult to obtain a divorce in Russia than in many capitalist countries Reasons for granting one are not specified in statute but are left to the discretion of the court Mutual consent seems the chief one

## *STATUS OF WOMEN*

The task of raising the status of women was undertaken by the women's department of the Communist party, under direction of Krupskaya, Lenin's widow The department sent out organizers to teach the women not to let their husbands beat them, to keep themselves, their children, and their homes clean, and to cook in approved fashion The wife beater could be threatened with divorce, as in the case of Masha Scott's father, who became more considerate of his wife The organizers persuaded the women to elect delegates to visit hospitals, schools, general meetings of women, political meetings, to observe and report in due course The women responded eagerly and were proud to be each in her turn a *delegatka* and to be as good as the men [7] The most difficult problem was in the Moslem areas where religion reinforced the traditional subordination of women The organizers set to work to bring the women out of the harem, to take off the veil, to teach them to read, write, and keep themselves clean The symbol of emancipation was the ceremonial burning of the veils, dozens at a time Many men did not at all like the modern ways of their wives, they divorced and on occasion killed them in a resentment derived from theology and masculine pride Nevertheless, time and pressure did the work, equality for women became the fashion in the Moslem areas as well as in the rest of Russia

## *FIVE-YEAR PLANS*

In 1928 Stalin and others of the high party command decided to abandon the NEP, to communize all economic activities, to industrialize Russia quickly and make it safe from military assaults on east and west, and they announced a five-year plan to these ends Never had anything so ambitious been attempted, it caught and held the imagination of the world until Hitler demanded attention by his menaces Had the Soviet government disappeared in 1928, it would have left little trace in Russia beyond the memories of the victims of the Cheka and the famine What it has done since that time has made a mighty impress on Russia which no change of government would be able to efface The Russia of communism is for our generation the Russia of the five-year plans

One plan was not enough and was succeeded by two others Overlapping and telescoping, they occupied twelve years, 1928-1940 Plans could be made in Russia, materials and unskilled labor were available in plenty Skill and machinery were lacking and must be imported The country went again on rations and exported grain and other materials like lumber to obtain foreign currency With this, machinery was bought, and engineers, technicians, experts of all kinds were hired at high rates to build the industries and set

[7] P S Buck, *Talk About Russia* (New York, 1945), pp 25-31

them in operation Americans and Germans were the largest single elements, and all industrial nations were represented

The plan, as arranged by Gosplan, the state planning commission, was to stress development of the Urals, for their natural wealth and their comparative security from enemy action The Ukraine, the central area, and the Caucasus were to have their share and the far east was by no means neglected A survey was undertaken to discover mineral and other resources Special attention went to the arctic in the form of polar exploration, horticulture and agriculture, lumbering, aviation, and the opening of a usable route for vessels from the White Sea to Bering Strait Industry required transportation, and the plan included railways, highways, and riverways Electrification was indispensable and was planned in many places, especially at the great gorge of the Dnieper in the Ukraine (Dnepropetrovsk) Pretense at equality of payment went to the winds, piecework, bonuses, differential rates were again in fashion

The foreign experts came, had equipment and labor from the government, and set to work They were amused and horrified at the inefficiency of the Russians and wrote home about it at great length But they were conscientious men, taught the Russians techniques, staff work, and organization, and had gone home by 1939, leaving Russia on her own economic feet Since that time she has owed little to foreign help beyond military devices during the war and what she can still extract from German scientists and is established as a great industrial nation,[8] perhaps owing more to resources than to efficiency.

The statistics on heavy industry show an increase to three or four times the base of 1929 which was substantially the same as 1913 They show also the shift to the east Moscow, Leningrad the Ukraine had 90 percent of the industrial output in 1913, 60 percent in 1938 Krivoi Rog had produced 78

[8] The figures for the rise in industrial production vary a good deal even in Soviet sources but are fairly consistent and entirely credible on the output of heavy industry The first four items are in millions of metric tons, cotton and wool are in millions of meters, shoes and boots are in millions of pairs

| | 1913 | 1929 | 1938 |
|---|---|---|---|
| Coal | 29 1 | 40 1 | 132 9 |
| Iron ore | 9 2 | 8 0 | 26 5 |
| Pig iron | 4 2 | 4 0 | 14 6 |
| Oil and gas | 9 2 | 13 8 | 32 2 |
| Cotton | 2,224 0 | 2,996 0 | 3,491 0 |
| Wool | 103 0 | 100 6 | 114 0 |
| Shoes and boots (leather) | 83 | 488 | 213 0 |

The consumer came off badly as these figures (for 1938) indicate

| | |
|---|---|
| Watches | 635,000 |
| Cameras | 207,500 |
| Radio sets | 202,400 |
| Bicycles | 385,600 |

All for a population of nearly 180,000,000 E J Simmons, *USSR A Concise Handbook* (Ithaca, 1947), p 267

percent of the iron ore in 1913, 47 percent in 1938 The Donbas coal was 87 percent in 1913, 51 percent in 1938 The outstanding development was in the Urals, where thirty cities grew out of small towns or nothing The great example is Magnitogorsk, a village in 1927, the Pittsburgh of Russia in 1940 with a quarter of a million inhabitants Berezniki became the home of chemical plants to make fertilizers in peace, explosives in war Sverdlovsk had a munitions factory on the model of Krupps at Essen and a machine-building plant Stalingrad, Kharkov had tractor plants, Gorki had car works on the plan of the Ford plant at Dearborn East of the Caspian Sea arose two new coal centers Kuznetsk on the lower slopes of the Altai in Turkestan and Karaganda in the arid area of Kazakstan The greatest machine-building plant in Russia arose at Ordzhonikidze in the Urals The urban population rose from 29,000,000 in 1929 to 56,000,000 in 1938, the new workers coming either voluntarily or involuntarily from the country The Nepmen went compulsorily out of industry and business Commerce became exclusively an affair of government and consumers' cooperatives, Russia was urbanized and communized

Transport expanded at the same time as industry, being required for the raw material and products Russia had lost 7500 miles of railway in the territories made independent in 1918, but she had built up to a total of 53,000 miles in 1937 Perhaps the best-known line of the new plan is the Turk-Sib, 900 miles from Turkestan to Siberia, or more precisely from Kuznetsk to Magnitogorsk, to link the coal of one to the iron ore of the other About 2000 miles were electrified in 1937 Locomotives were made at Voroshilovgrad and Leningrad in the former Putilov works, freight cars chiefly at Nizhni Tagil in the Urals The use of the railways surpassed the increase in mileage, placed a heavy strain on the roads, and brought about many breakdowns of tracks, bridges, locomotives, cars

The roads of Russia measured 840,000 miles, of which 12,500 were surfaced in 1914 and 64,200 in 1938 Only 2400 of the 64,200 miles were asphalt, the rest were cobble or gravel In the Ukraine there is little gravel, and the road from Kiev to Chernigov was paved with brick The great majority of roads remain of pure earth Motor roads connected the chief cities like Moscow, Leningrad, Minsk, Yaroslavl, Gorki and provided passage for 760,000 trucks in 1938[9]

The rivers were of value in the five-year plans, in view of the poor roads and the inadequate railroad service, they provided 56,170 miles of internal waterways in 1939, the Volga being the best In 1938 the rivers carried about 68,000,000 passengers on commercial boats The five-year plan provided for

[9] It may be stated that the United States had 1,596,000 surfaced miles in 1941

The traffic run in Russia rose from 41,000,000,000 metric ton-miles in 1913 to 370,000,000,000 in 1939 Passenger traffic rose from 185,000,000 fares in 1913 to 1,178,000,000 in 1938 Simmons, *op cit*, pp 272-275

canals like the Baltic-White Sea, built by forced labor 142 miles from the Finnish Gulf through Lakes Ladoga and Onega to the White Sea Another canal connects Moscow directly with the Volga, eighty miles, others were planned, e g, from Volga to Don and from Amu-Darya (Oxus) to the Caspian

The most spectacular effort to improve transportation was in the Arctic In 1932 an icebreaker made the trip from Archangel to the Pacific in one season, in 1934 another vessel made the return trip, from Vladivostok to Archangel Air patrols were established to watch the floes and guide vessels around them, and in 1939 they enabled 104 vessels to use the Arctic for 100,000 tons of freight, though only eleven made the through passage The service was increased in the war, though there is still doubt of its commercial value

Russian mercantile marine showed great expansion In 1938 it carried 30,400,000 metric tons of sea-borne freight, an increase of 350 percent over the figures of 1929 Air freight and passenger service were greatly developed also, in 1944 the major airways measured 86,800 miles Primitive transportation has by no means disappeared, in many parts of the country the camel, horse, ox, mule, ass, buffalo do their duty for communism as they did for nomad rulers in prehistoric times [10]

## *AGRICULTURE*

With the communization of industry went that of agriculture The peasants took over the land of the proprietors in 1917-1918, driving the incumbent to the cities or exile or graciously letting him take a share and stay as one of themselves They often put all the land, the proprietor's and their own, into a pool and divided it out by size of families By the official statistics they formed 25,500,000 small holdings of twenty acres' size on average Under the N E P the farmers might rent, sow, and hire as they would, and they restored substantially the production of 1913 Some did better than others and had the opprobrious name of *kulak*, and they were reluctant to part with their produce for the poor and dear commodities produced by the government from the factories in town The holdings were small, the methods of cultivation out of date The government formed 1400 state farms, some of which were to experiment in large-scale production, and 1900 collectives or *kolkhozi* on a voluntary and cooperative basis, but did not impress the vast mass of peasants [11]

Socialist theory disliked the single farmer He had a capitalist mentality and was sure to be unsympathetic to a socialist regime, no matter how many

[10] *Ibid*, pp 276-282

[11] A Baykov, *The Development of the Soviet Economic System* (New York, 1947), p 138, gives 1900 collectives, 25,586,000 peasant farms in 1928 On p 333 he gives 1400 state farms

liberties it allowed him Growing and delivering what he liked, he could not be worked into an overall scheme of production It was argued also that he was an anachronism On large farms, tractors, combines, and other motor machinery could be used for better yields with much less labor than on small individual farms The five-year plan therefore included forcible collectivization of the peasants' lands An attempt was made at persuasion, agents visited the peasants to urge the advantages of union of farms and had some success in the poor areas of north and center Here the people attached little value to large holdings in any case and were willing to pool their resources

On the good land to the south, the better-off peasants stigmatized as *kulaks* objected to collectivization, would not be persuaded, and in some cases indulged in riot The secret police—now G P U —arrived for a war on the *kulaks* They executed perhaps half a million, deported some 5,000,000 to lumber or labor camps in the north or construction in the Urals, and let hundreds of thousands die of exposure, especially children The cleverer *kulaks* anticipated these evils, fled to the towns, and took jobs in the factories

Humanity meant nothing to the G P U or the government which gave it orders, but production touched them closely The best producers in the country were killed or removed The others commonly killed and ate their animals before going into the collectives, where they trusted the government to take care of them Tractors and combines did not arrive for some years, the power remained horse, ox, and man, and production fell drastically Russia experienced a second famine in thirteen years as a result of her socialist theory Perhaps 3,000,000 to 4,000,000 people died from malnutrition and disease, the best areas of the country were as waste as if an invader had passed over them

Stalin was obliged to make concessions He allowed the peasants to occupy small holdings provided they hired no labor, but by taxes kept the number low If the families would stay on the collective, each would have a plot up to two acres of its own They would do a certain amount of work for the collective and would have what produce remained after the government, cooperatives, taxes, and expenses had taken their toll Most of the peasants accepted this arrangement for lack of a better, and from 1935 had the help of the long-promised tractors and combines The number of state farms was about 4000 in 1940, in average 7000 acres each, the collectives increased to 242,000, in average 1200 acres, with seventy-five or eighty families There were said to be only 1,300,000 individual families on 2,400,000 acres, a figure which invites suspicion

Production began to improve from the low of 1933 The grain crop of 1940 was said to be 120,000,000 tons as opposed to the 74,000,000 of 1916 and may have been so from the increase of the sown area in state farms The yield remained as low as ever per acre On the collectives, methods were better, rota-

tion was of an improved kind, fertilizer was used, graded seeds were sown, time was saved by machines But these were offset by weeds unhoed, losses in harvesting and storage, and by the eight-hour day worked on the collective property as contrasted to the twelve- or fourteen-hour day on the old private farms—and above all, by the unwillingness of the farmers to exert themselves on the government's land They saved energy for the private holdings and in 1937 raised over one-fifth of the total agricultural production on these miserable allotments The government did not draw the obvious moral that individual farming is the best for production, instead they curbed this tendency and ordered the farmer to spend a minimum number of days on the collective, holding him back from work with his heart in it to place him where he would do as little as possible

The story of animal husbandry is the same The number of animals fell drastically from 1928 to 1933 and made a partial recovery by 1938 [12]

By themselves on their private plots the farmers raised many more livestock than as a body in the great open spaces of the collective The lesson could not be more clear but was entirely lost on the socialist theorists of the government Russia is the only country where people have gone to a great deal of trouble and bloodshed in order to have less to eat

## *SECRET POLICE AND THE TERROR*

These changes in Russia had an accompaniment of terror The Cheka or secret police had something of a holiday under the N E P and changed its name to O G P U , for short Gay-Pay-Oo, the names of the last three initials When the five-year plans began in 1928, the organization had plenty of work with the *kulaks* Incidentally, it became the largest employer of labor in Russia, using its prisoners to make the White Sea canal and do construction work in such places as Magnitogorsk It had also the business of keeping up the morale and efficiency of managers and directors of enterprises and experts in their employ, and it did this by arresting them for breakdowns or shortages

[12] The figures are as follows (in millions)

| | 1928 | 1933 | 1938 |
|---|---|---|---|
| Horses | 33 5 | 16 6 | 17 5 |
| Cattle | 70 5 | 38 4 | 63 2 |
| Sheep and goats | 146 7 | 50 2 | 102 5 |
| Hogs | 26 0 | 12 1 | 30 6 |

Most of this pitiably small production of livestock was individually owned in 1938 Simmons, *op cit*, p 253, slight variations in Turin, *op cit*, p 119

The following statistics are for 1938

| | Horses | Cattle | Sheep and Goats | Hogs |
|---|---|---|---|---|
| Kolkhoz | 12 4 | 14 8 | 22 8 | 6 3 |
| Sovkhoz | 2 0 | 3 7 | 7 0 | 2 8 |
| Members of kolkhoz | 8 | 25 1 | 30 7 | 12 8 |
| Others | 1 0 | 7 3 | 6 1 | 3 8 |

in delivery, charging political motives to make startling news for the public, putting many in jail or labor camps and shooting a few to encourage the others, as Voltaire said It invented the idea of putting the victims before the microphone to confess and bewail their sins in public, and it had a habit of dealing with batches at a time, e g , agricultural officials and railwaymen By 1934 this work seemed at an end and the G P U was transferred to the Commissariat of Internal Affairs and acquired new initials, N K V D

But the assassination of Sergei Kirov in Leningrad in 1934, privately ascribed to jealousy, was publicly laid to Trotsky The police at Stalin's order took 125 persons out of prisons who had no connection with the crime and shot them Then began the Trotsky-German-Japanese scare Trotsky was alleged to have been plotting with Germans, Japanese, and by variation with Poles, French, and British to overthrow the Soviet Union The central figures this time were Bolshevik old guardsmen, the roll of honor of Russia in the 1920's, comrades of Stalin through many dark days, men who had given their lives to communism Many of them confessed before the microphone, all of prominence were shot Seven of the highest commanders of the Red Army followed them to the grave The N K V D rounded up the victims and obtained confessions, and the prosecutor general arranged the show before the microphone afterward The head of the N K V D at the beginning of these purges was Yagoda He was purged and Yezhov put in his place Finally a purge of the purgers took place, Yezhov followed his victims as a sign-off and Lawrence Beria, the present incumbent, succeeded him There is much mystery about this lurid episode, in so many ways like the proceedings of Ivan the Terrible and Peter the Great at their worst [18]

## *COMMUNIST DIPLOMACY*

The terror was followed and accompanied by the menace of Hitler, and this required a new formulation of foreign policy From the first, Communists have regarded nationality as an illusion and a nuisance, and the whole working class of the world as essentially one Nationalists, bourgeois, and capitalists were enemies and to be dealt with as such Though sometimes saying the opposite, Lenin and Stalin have believed that socialism and capitalism could not live together indefinitely and would at some time engage in a death struggle They had two contradictory theories about western nations (1) that they were decadent and on the brink of revolution, (2) that they were strong and ill disposed enough to go to war with Soviet Russia The favorite prediction is (1) a financial crisis, (2) fascism, (3) war on the Soviet Union In the meantime the socialist state would have as little as possible to do with capitalist states, and that little a matter of trade for needed commodities

This theory inspires a peculiar diplomacy The Communists make out-

[18] A good summary appears in Chamberlin, *The Russian Enigma* (New York, 1943), chap 10

rageous demands, accusations, and abuse in public of all and sundry and particularly of those who ought to be their friends and are negotiating with them They find fault with all countries and motives but their own, they evade promises and commitments or agree on a principle and make all manner of difficulties about execution The foreigner is unclean and deserves no consideration except what is due to his strength Force, threats, deceit, secrecy, intrigue are the proper means to meet him and are supported by the best efforts of Byzantine and Marxist cunning An obvious result of this diplomacy is to alienate everyone and leave Russia without a friend, another is to deceive the Communists themselves in many ways It has misled them about the strength and intentions of western nations, in which nobody that mattered cared a particle what the Soviets did inside Russia It misled them about readjustment of western economies to give the industrial workers security and a high standard of living, and it misled them about the danger from Germany

In the upshot, the national interests of Russia were neglected for the will-o-the-wisp of world revolution In 1919 the Communists created the Third or Communist International, or Comintern for short, and in the course of time founded Communist parties in many countries and appealed to the industrial workers to overthrow capitalism in the west and to Asiatics and Africans to overthrow their colonial rulers These parties attempted revolts or revolutionary strikes in Finland, Hungary, Bavaria, Berlin, and Italy, 1918-1920, and minor disturbances in many other places, and failed in all In Italy and Germany the resort to violence called forth counterviolence in the form of fascism The only success was in China, where the party worked with Chiang Kai-shek at first in the national movement, separated from him in the moment of triumph, and migrated to the northern provinces and a new base close to Russia From this they threaten to occupy most of all of China (1949) Small parties in the English-speaking countries spent much time denouncing socialists and liberals on the principle of alienating everyone possible The local parties had inspiration, orders, and some financial help from Russia, which would not tolerate the least parallel activity of capitalism on its own territory This subsidized propaganda widened the gulf created by Soviet diplomacy and poisoned international relations The Communists could not understand the result and laid it all to inborn capitalist prejudice

Through the 1920's, the rulers of Russia publicly denounced the other national leaders by name and country and were forever accusing France and Great Britain of plotting war, using Poles, Rumanians, anyone as tools They denounced the League of Nations as a capitalist device to mislead the workers of the world They did their best to strengthen Germany, regarded as an oppressed nation, against the oppressors, France and Britain They badly befogged themselves about the policies and intentions of everyone else

Russia was accordingly without a friend and, what was worse, with no

idea how to make one With great unanimity her leaders were denouncing Great Britain as the perfect embodiment of capitalism and imperialism At the same time they were encouraging the only possible enemy in a remarkable imitation of Alexander II's fostering of Bismarck The Treaty of Rapallo, 1922, provided for mutual military help between Germany and Russia and had its part in the emergence of Hitler as a first-class threat to Russia Indeed, for some years after 1933, Stalin was seeking an agreement with Hitler in vain He extended a finger to the western powers—entered the League of Nations and sent Litvinov to preach to it, contracted an alliance with France and another with Czechoslovakia contingent on it, and set the Communist parties to organizing popular fronts with Socialists and Liberals But he let the alliances remain on paper from the mutual distrust caused by his theories and procedures Neither party had confidence in the other, they did not make the visits, exchanges of information, and plans of action which alone give meaning to an alliance Stalin did not even try to approach the British government A contributing motive was the hope that capitalism was rushing to its dissolution Stalin, in fact, had no policy We may remark that Litvinov's exhortations to the League of Nations were a poor substitute for the personal assurances, meetings, and pledges over a period of time necessary for common action with the western powers

At the next-to-last minute of the crisis about Czechoslovakia in 1938, Stalin sent a roundabout offer of help to Prime Minister Neville Chamberlain through Winston Churchill Churchill would have accepted it, Chamberlain, a lesser man, distrusted the offer made in a furtive way after many years of abuse, and refused it

## *WAR OF 1939*

Stalin thought that Chamberlain was turning Hitler east against Russia The fear ought to have been dispelled by British guarantees to Poland and Rumania in the spring of 1939 But the new situation revived hope that the western powers might bleed each other to death to the profit of Soviet Russia, and Stalin determined to lay down his price, the four Baltic states in whole or in part Chamberlain felt he could not begin a war against aggression by sanctioning a large-scale aggression Hitler had no such scruples, he gladly promised this and more and so began the war and insured the attack on Russia in his own good time

The chief thing overlooked in all this was Russian national interests, which required the maintenance of peace, or in default of that, the securing of military help Taking the example of czarist diplomats, Stalin ought to have dropped all differences with the western democracies from the time of the emergence of Hitler, to have cultivated close relations and established mutual confidence, in which case there would have been no war Even failing this, in the crisis of 1939 Russian interests called for acceptance of the overtures

from Great Britain and France, perhaps with a proviso that they make the first moves and commitments, which again would have prevented war If war should come nevertheless, the elementary need of Russia was to avoid strengthening Hitler, who had told the world of his intention to devour her Yet Stalin gave Hitler great quantities of supplies as well as diplomatic support There was a profound misunderstanding of the interests of Russia and of the strengths and aims of the other powers which can be laid only to the fog created by communist theories

Stalin's excuse was that the pact with Hitler gained forward positions for him and two years' preparation for the struggle On the other hand, it helped the German army to grow immensely stronger by 1941 than it was in 1939 and gave it jump-off positions in Finland and across Europe to the Black Sea Above all, the pact led to loss of the second front in France, which Russia was to rue bitterly for three years The German invasion, occupation, and destruction of Russian lives and goods was a heavy price to pay for the temporary occupation of the Baltic states and Poland Certainly the czarist diplomats would stand aghast at the elementary errors of their theory-ridden successors, who failed to prevent a preventable war, destroyed allies, and assisted a mortal enemy Had Stalin desired an invasion of Russia, he would have acted precisely in this way

## *ARMED FORCES*

The army, however, partially made up for poor diplomacy In the Red Army of the civil war an effort was made to remove distinctions between commissioned and noncommissioned ranks All wore the same uniforms except for insignia, ate and slept in the same messes and barracks, all called each other comrade Salutes and standing at attention were restricted to the parade ground, ranks were by the job squad commander, company commander, army commander, etc The control of the army was insured (1) by the party and *Komsomol* cells throughout the units, to which most of the officers and half the rank and file belonged, and (2) by the political or military commissar, a party member charged with supervision of political ideas and endowed with a veto on the actions of the officers He was a much more powerful person than his counterpart in western armies, the chaplain, and aroused jealousy among the regimental commanders and the staffs His powers have been subject to fluctuation accordingly and at present seem to be restricted to political education The army took an oath to the international working class as well as to the communist state

The army is said to have reached a strength of over 5,000,000 in the Polish war of 1920 and was reduced rapidly after that conflict, to 562,000 in 1923 Next year it came into the hands of a competent Commissar for War, M V Frunze He provided better training, food, uniforms, promotion, equipment, and gave the army a new spirit The army was not the only military formation,

there was a militia for workers who cared to use their spare time on it and eventually a civilian military training organization, the Osoviakhim This body conducted night classes in factories and clubs etc, in guerilla war and trained up to 13,000,000 men and women in the arts of hampering an invading force It had an aviation program and forty airfields of its own in 1931

From 1925 on Russia had the draft but allowed the conscript to choose the militia or in certain cases a labor camp, and exempted groups like the disfranchised classes, charging them a tax The authorities took care to keep the industrial element in the commanding position, up to 40 percent of the personnel, and did not want too many peasants and others The menace of Hitler compelled extension of the draft to everyone and brought about abolition of the militia The five-year plan provided much new equipment and greatly improved the specialist military schools in quality and number From the treaty of Rapallo (1922) to 1935 a hundred Russians went to the Berlin staff college every year and spent their time to good advantage The army adopted a striking innovation in a low retiring age, only fifty in the case of general rank

The purge of 1937-1938 fell heavily on the army, extending to many arrests (20,000 officers by one report) and some executions, as of Tukhachevsky and six other high commanders It did not destroy the morale of the army but facilitated promotion of young specialists and gave the army of 1941-1945 commanders of from thirty to fifty years of age, the most junior of all the contending forces The Red Army had sound theories of modern war, it attached special importance to guns and had great masses of them to concentrate on specific points like Leningrad, Moscow, Stalingrad, which baffled the efforts of the Germans It had large numbers of tanks and planes, probably not so many as the Germans This inferiority and the lack of mechanical aptitude and of experience in war placed the Russians at a slight disadvantage in 1941-1942 and led to large losses of territory By the end of 1942 the Russians had the experience and aptitude and made up the deficiency of equipment by their own efforts and those of their allies Russian industry and the army were much better than in 1914 and with the help of the western powers enabled the country to enjoy spectacular triumphs

In the interval, the early equalitarian principles had suffered severely The old ranks—lieutenant, captain, etc —returned, officers had their own uniforms, messes, barracks, they must present a smart appearance, might not carry luggage From 1943, the higher officers had epaulets again Saluting on the streets became common The army dropped the oath to the international working class and took one solely to Russia It harked back to czarist traditions and recalled the days of Suvorov and Kutuzov by medals named after them, it became more national, a Russian rather than a Red Army Ranks, uniforms, epaulets were introduced also for several categories of civil servants, diplomats, railroad employees

Military and cadet training is well provided Boys in the upper secondary schools (grades eight to ten) do training at school and a turn at camp in the summer and on graduation may enter military academies to become officers There are special military high schools, including a group named after Suvorov and reserved for orphans and children of high officers The entering age varies from ten to fourteen, the graduates go to the military academies [14]

[14] D F White, *Growth of the Red Army* (Princeton, 1944), chaps 1 to 8, Gsovski, *op cit*, pp 143-147

# Chapter 41

# *Communist Party and Soviet Government*

## *YOUTH SOCIETIES*

IT IS a commonplace that membership in the Communist party is the road to power, distinction, and privilege in Russia An aspirant may apply directly for admission or may come from one or more of the youth societies affiliated with the party, the Little Octobrists, Young Pioneers, *Komsomols*

The Little Octobrists, baby Bolsheviks, are of ages eight to eleven with some latitude either way and are organized in links and groups Five links are a group under a *Komsomol*, a link is five children under a Pioneer as leader, but as numbers and leaders are not always available, the organization is sketchy The children learn some communism and elementary duties to the state, society, and each other, at least if they follow the general directions for the society They insist they are not boy or girl scouts but cannot escape doing many of the same things as these despised members of capitalist society

The Young Pioneers are of ages ten to sixteen and number about 15,000,000 Entrance is easy, open to any child, and leads to a two months' probation Ten children are a link, four or five links are a brigade attached to a *Komsomol* cell and under *Komsomol* leaders if these are at hand They take an oath of loyalty to communism and Russia and learn a socialist attitude toward labor, study, and communal activity This means useful work in schools and camps and a handiness with Marxian phrases and praise of leading Communists They help the teacher to maintain discipline and the pupils in their work and recreation and promote interest in the building of Russia They may make models of tanks, planes, tractors, help to run a camp, take a turn with the harvest, and find time for singing, dancing, and sports A town has a Pioneer House, a city a Palace of Pioneers in one of the best buildings, e g , the former governor's residence The best is in Moscow and has drawn much favorable comment These places are for instruction, Pioneer activities and recreations, all of which are wholesome, to judge by the accounts The members read *Pioneer Pravda*, a four-page tabloid put out by the *Komsomols* This publication has articles on Pioneer persons and activities, great national events, the success of Russian plans and failure of western ones, and special

issues on great days like May Day and the anniversary of the Revolution in 1917 The outward and visible mark of the society is a red tie, which is removed in public as a sign of expulsion

The *Komsomols* (masculine, *Komsomolets*, feminine, *Komsomolka*) form the Young Communist League, ages fifteen to twenty-six, and derive their name from the first syllables of those three words in Russian The full name is All-Union Leninist Young Communist League, the symbol a red badge The society began with 20,000 members in 1918 and now has 9,000,000 of 142 racial origins, and the great majority urbanites An application is supported by two members of at least a year's standing or by a party member, and by the teacher or class director if the aspirant is in school, as is normally the case Those who recommend an unsuitable person are liable to expulsion but rarely suffer the penalty The period of probation is about six months, long enough for the members to know the newcomer The successful applicant receives a small green book with the rules and program of the society and lessons on the ills of capitalism, the perfections of communism

The main duty is to assist the party in education and practical work The members learn Marxism, help the junior societies, lead drives, assist in election campaigns, and take a hand with production in field and factory Naturally they do most of their work in schools, promote discipline and learning and encourage extracurricular work and healthy recreation Among each other, they discourage ideas like religion and pride of race and bad conduct like drunkenness, smoking, and loose living Socially, they are quite a proper set of young people They read the *Komsomolskaia Pravda*

They form cells or organs in places of work or study rather than residence, and appear in factories, offices, schools, the armed forces, and a few farms Each cell by secret ballot elects an executive committee of five to eleven members and other committees, e g , for production, studies, recreation These committees organize special courses, lectures, conferences of readers with authors, concert, excursions, athletics, chess games, etc The cell elects delegates to the district or city committee, which in its turn elects an executive and delegates to a regional or territorial committee in the R S F S R and other large republics or to a republic committee in a small republic All elected bodies report to membership meetings, which is regarded as democracy, the decisions of the higher bodies are binding on the lower, which is centralism The combination is called centralist democracy, a stock phrase in Russian politics According to the rules, the regional territorial and republic committees send delegates every two years to an all-union congress, which elects a central committee, this body met in 1949 and listened to an antireligious speech to set the keynote At every stage, the youth organ is directed by the corresponding party organ, and the central committee is under the central committee of the party. At age twenty-six, the *Komsomol* is expected to join the party but may remain with a mere voice and, if elected to a committee,

with full voting rights[1] There is a temptation to remain, it confers party status without the obligations

In the period of the five-year plans and the war, the *Komsomols* had shock tasks A group of them would go to a railway or factory in trouble and try to overcome the breakdown with their youthful zeal and energy They had the grim work of helping the G P U to liquidate the *kulaks* They helped build the Moscow subway and they founded the city of Komsomolsk on the Amur in the far east These were emergency tasks, for which professionals are now available, and the *Komsomols* stay at home generally, except those in the armed forces

## *THE PARTY*

Until 1939 the requirements for admission to the party varied with the social and economic background of the applicant, the most favored being industrial workers, the least being persons connected with other political parties or the czardom, whose cases were referred to party headquarters The aspirant underwent probation for periods of from one to three years In 1939 the system was simplified and except for the last categories, who still went to headquarters, all applicants were on the same footing They must be at least eighteen years of age and show endorsements from three party members of three years' standing If of the age group eighteen to twenty, they must have come from the *Komsomol*, and with good record there, they have automatic admittance The candidate has a year of probation, he studies Marx, the history, work, and techniques of the party, and does specific tasks designed to find out how much he or she is worth At the end of the year he applies for full membership and needs the approval of the local party executive and of the party committee of city or district If he has all this, the rest is easy, the organ votes in his favor, the president and the secretary take him by the hand He promises to submit to party discipline and accepts the party program, he need not understand it entirely, as he will have more indoctrination Among the obligations is the renunciation of religion, perhaps not stressed so much as in the period between the wars

The party member may now attend meetings, vote in elections, hold office, and communicate with any party agency including the central committee He has a party book and a number, he has no special shirt or uniform He has the right to carry a revolver but does not often make himself so conspicuous He shares in discussions when a policy is being formed and conforms to the final decision no matter what he thinks of it, this is called intraparty democracy But no discussion of controversial matters will take place without instructions from party headquarters, and there has been little of it now

[1] *U S S R Information Bulletin*, March 11, 25, 1949, pp 165-166, 199-200 (hereafter cited as *Bulletin*) The best survey of youth societies is by Julian Towster, *Political Power in the U S S R* (New York 1948), pp 137-144

for many years No doubt a party unit may make protests or offer suggestions over a broad field to its superiors and is always useful as a listening post

To be in does not necessarily mean to stay in A member can be expelled any time, and in the 1920's and 1930's he ran additional risk in the periodic purges of the party intended to keep down the numbers or to eliminate Trotskyists These were painful affairs to the leading character, who gave a review of his life and acts and submitted to a searching examination The accusations might well extend to marriage in church or baptism of a child there, as well as to personal and political misdemeanors Almost a million candidates and members were expelled in the great purges of 1935-1938 To be expelled is no light matter, even if no prosecution follows, the victim need not expect to hold any position of responsibility and will have the lowest wherever priorities exist The last purge occurred in 1946, in areas recovered from the Germans and suspect of disaffection, but was local only

For many years the right size of the party was thought to be 2,500,000, the right age of the member above twenty-five By 1940 only 8 9 percent of members and candidates were under twenty-five, but the membership had risen to 3,400,000 members and candidates Many were killed or disabled during the war and left places to be occupied by war heroes with a poor training or background admitted on easy terms to share the heavy burdens By 1946 the roll showed 6,000,000 of members and candidates, two-thirds of whom had come in during the preceding five years Youth had gained, 18 3 percent were under twenty-five, 63 6 percent under thirty-five Only 400,000 had been at a university, nearly 3,000,000 had not reached high school In prewar conditions a purge would be in order, but nothing of the sort has happened and presumably the new members have now had the training they lacked The head of the party member seems more firm on his shoulders than at any time since 1917

The basic unit, formerly called the cell, is now the organ, of which there were about 250,000 in 1946 It exists not in a geographical area but in a place of work—an industrial or commercial enterprise, a collective farm, a state farm, a ship, an educational institution, a unit of the armed forces, etc The least hopeful sector of society is the collective farm, in 1939 only 12,000 of the 242,000 collectives had organs with a membership of 153,000 out of 3,400,000 and at that, probably largely office staff The factories are obviously the best field for Communist seedlings The minimum membership of an organ is three, to provide a chairman, a secretary, and a treasurer If three are not available, candidates and *Komsomols* may form an organ until qualifications are met

If the members number fifteen, they may elect an executive committee or bureau If they exceed a hundred, they may form sections, if they rise above 500, they may form new organs with consent of party headquarters If more than a hundred, they may employ two or three full-time paid officers, includ-

ing the secretary, but everybody else works in spare time They get the funds by initiation fees and annual dues, a percentage of a member's wage up to a maximum of 3 percent

The organs elect delegates to the city or district party conference Each meets once a year at least and, if it obeys the rules, chooses a plenum or section to meet every six weeks and a committee or bureau with a secretary and two substitutes, all to be confirmed by the next higher authority The bureau is in constant session, it keeps in touch with the secretaries of the organs, issues directives of policy to them, appoints and instructs editors of local publications, and supervises the work of party groups in nonparty bodies like trade unions, cooperatives, cultural societies The normal agenda of party units now is the management of elections, of elected bodies, and of economies

The district or city conference elects delegates to party conferences in each of the republics and in the regions (territories, areas) of the R S F S R Each conference chooses a central committee which in turn chooses an executive committee and secretaries to be approved by the central committee of the Soviet Union—i e , they are professionals, graduates of the party schools It also picks delegates to the all-union party congress This body elects a central committee, which chooses a political bureau, an organization bureau, a secretariat, an audit commission for finances, and a party control commission to see that decisions are carried out and discipline is kept There may be other committees, e g , one for the press There is also a party conference to hold meetings between sessions of the party congress, it is composed of the heads of the regional, territorial, and republic committees

In theory the all-union congress determines policy, revises the rules and the program of the party, and elects the bureaus and committees But it is in danger of becoming obsolete it has not met since 1939 The congresses were large bodies, that of 1939 had 2040 members, of whom 1574 had decisive votes, the others being alternates Even the party conference has not been held since 1941 It filled gaps in the central committee from alternates elected by the congress and made decisions of policy on advice of the central committee But these functions have lapsed and the headquarters organizations perpetuate themselves

The last congress was called by the central committee, sat with closed doors, elected its committees and bureaus, heard reports of the central committee and other bodies, debated them, and came to unanimous conclusions It was a mere policy-propagating body

The central committee has seventy-one members, with sixty-eight alternates who stand by to take the place of members dropping out and attend meetings but do not vote By the rules, it meets four times a year and guides the entire work of the party But it is too large and meets too infrequently to do this and leaves real authority in the hands of the Politburo and the secretariat, which

is the secretary general of the party and four assistants[2] The secretary general is none other than Stalin himself He has his way if he wants it and has often taken important decisions in the absence of his colleagues But often he may not have an opinion or at least a strong opinion and may be open to argument Here if anywhere in Russia there is full and free discussion, as in the whole nation in democratic countries Once a decision is reached, the Politburo presents a united front and issues the necessary directives to the party and occasionally to the nation Its membership interlocks with those of the other bodies—the Orgburo, the secretariat, the control commission, the audit commission The same group controls all of these and the party central committee and are lords of their lords

The party has several departments, e g , for mass campaigns, for propaganda and agitation, for organization and instruction, for agriculture, and for schools These are often policy-making units and give instructions to the administration or to the people as a whole The Propagit or propaganda and agitation department makes comments on the directives of the Politburo to explain their application, it announced the cultural purge of 1947-1948

The party is homogeneous and permits no national or other groupings within itself A member may discuss an idea but not get up a group to support it before the meeting opens Headquarters may dissolve an organ, reprimand, suspend, or expel a member and report him for trial if he has offended the law or the safety of the state It is not fear that keeps the party together in spite of all this, but common purpose and hope to promote public welfare

The party has its men in key positions in industry, the trade unions, commerce, finance, transport, agriculture, the press, the radio, the stage and films, the police and armed services, it controls the means by which men earn their bread, communicate their ideas, and coerce each other But it has simply not enough members for all important positions and shares them with reliable sympathizers Party men are in a large majority in the supreme soviets of the union and of the republics, are about half of the urban and district soviets, and are a small minority of the village soviets, always stony ground Training is given in about fifty party schools, which have a two-year course for organizers and propagandists and a faculty composed half of party men, half of lay instructors

The party man is above average in ability, as the party seeks such persons and they seek it for power and privilege He is a model worker, leads every campaign for production, effort, sacrifice, and takes the posts of danger He knows how to manage men and uses the carrot instead of the stick The party secretary is godfather to the community—attends social affairs and says a word on the virtues of the party and Stalin He is the man to see about small favors or to cut red tape, he has a smile and a handshake for everyone and

[2] The Politburo has ten members and four alternates, the Orgburo eleven and four, the audit commission twenty-two

many of the arts of the American ward boss The Communist eschews riotous living, which would discredit the party, but is no ascetic and takes thankfully whatever amenities come his way He marries early, stays married, and brings up his family in Communist principles and with a view to the good jobs He is a good man for his family, community, and country, in a Communist view [3]

Nevertheless, there is a dark side in the party man's life He must obey orders even if they violate every consideration of humanity, he will tolerate or promote human sacrifice on a scale never dreamed of by the followers of Baal or Moloch He can have no regard to truth in matters affecting the party,




The USSR

he will follow the party line through the most outrageous falsehoods and will pursue it in all its deviations, saying one thing this week, the opposite next week, the first thing the week after He may have as many as three lines to heed one for the public, one for the mass of the party, one for the inner circle who must know the facts He can have no judgment of his own even on intellectual and aesthetic matters, if he cares for such things, for the party lays down a line for biology, music, philosophy, history, literary criticism, astronomy, art He lives in a poverty of mind that the old regime never knew and he cannot call his soul his own For this reason few artists and scholars are members The party can satisfy a man's desire to serve but never his desire to think for himself or his passion for the brotherhood of the human race [4]

[3] W H Chamberlin, *The Russian Enigma* (New York, 1943), chap 7

[4] The best description of the party is by Towster, *op cit*, pp 144-158

## *PARTS OF THE USSR*

For purposes of government, the party and the official agencies have divided the Soviet Union in two ways, by geographical areas and by national groups Each national group is in theory to have some recognition of its being in one of four types of statehood the union republic, the autonomous republic, the autonomous region, the national area At present the union includes sixteen union republics the R S F S R, the Ukraine, White Russia or Byelorussia, Lithuania, Latvia, Estonia, Karelo-Finland, Moldavia, Georgia, Azerbaijan, Armenia, Kazakstan, Uzbekistan, Turkmenia, Kirghizistan, Tajikistan

A union republic contains a dominant national group and has its own constitution, approved and amended by its supreme soviet in full conformity with the constitution of the U S S R It makes its own laws so long as they do not conflict with the laws of the U S S R A union republic may suffer no change of territory without its own consent, it has its own military forces, which are an integral part of the armed forces of the U S S R It may in theory enter into direct relations with foreign states, conclude agreements with them, and exchange diplomatic and consular representatives, but in practice it needs permission of the central government It has its own citizenship and extends equal rights to citizens of all other republics on its territory Its citizens are also citizens of the U S S R It has its own state emblem and flag

Some of the union republics have peoples not of the dominant nationality within their area If considerable groups, these form autonomous republics, of which the R S F S R has twelve at present Georgia has two, Azerbaijan one, Uzbekistan one Each autonomous republic has a soviet and courts and uses its own language in education, state agencies, and institutions Each has its own constitution, approved by the supreme soviet of the union republic, and may make laws that do not conflict with those of higher authorities It suffers no change of boundary against its consent, has the same emblem and flag as the union republic about it and merely adds its name to them

Several of the union republics have small groups of peculiar peoples on their territory, which may form autonomous regions under the names of the peoples Each has a constitution, approved by the union republic, a soviet, courts, its own language in education and official agencies The smallest groups form national areas of about 10,000 population, each with a soviet, courts, and language All ten of these are in the north of the R S F S R

Beside these divisions by nationality are divisions for administration the territory *(krai)* and the region *(oblast)* The territory, large and sparsely settled, is in the north and east, the Krasnoyarsk territory represents the old Yenisei province The region is smaller, populous, and civilized and is by preference in the south and east Some of these also represent old provinces.




The USRR in Europe

Gorki region stands for New Novgorod province The part of East Prussia which fell to Russia in the postwar division of lands has become a region with its center at Kaliningrad *(Konigsberg)* [5]

From this point, the divisions become complicated, for the territory may include national areas and regions, the autonomous region (and republic) may have ordinary regions inside it The region has districts and cities, the district *(rayon)* has towns, rural groupings or townships, and settlements in the wilds, and the city may have urban districts What is worse from the student's standpoint is that the lower units change with movements of population In 1947 the R S F S R had twelve autonomous republics, six autonomous regions, six territories, forty-seven regions, ten national areas The territories included three regions, the autonomous regions had six ordinary regions inside them There were 2541 districts, 727 cities with 344 urban districts, 41,049 rural groupings, and 1063 settlements [6]

The national units are a concession to the gregarious instincts of groups and yet satisfy only some of these In 1947 the R S F S R had only twenty-eight autonomous republics, autonomous regions, national areas in all and yet had well over a hundred ethnic groups, some of whom may not want a national roof of their own Some weaknesses were revealed during the war, four autonomous republics and one region evinced sympathy for the Germans They were broken up and the population exiled to Siberia in czarist fashion The outstanding example was the German autonomous republic on the Volga, the others were in the Black Sea area where Moslem influence was strong

In 1946 the Ukraine had twenty-three regions Azerbaijan had one autonomous republic and one autonomous region, Georgia, two autonomous republics and one autonomous region Uzbekistan had five regions and one autonomous republic, Tajikstan had four ordinary regions and one autonomous Kazakstan had fourteen regions, Byelorussia ten, Turkmenia five, Kirghizistan five The others presumably had mere districts and cities

One of the autonomous regions of interest to the outside world is Biro-Bidjan in the far east on the border of Manchuria This was set aside for Jews in 1934, to be called the Jewish Autonomous Region with Yiddish the official language It is said to contain many minerals like coal, iron, lead, peat beds, and forests which cover 32 percent of the surface The population is 100,000 of whom 30,000 live in the capital Biro-Bidjan The Jewish population is less than a quarter of the whole but has most of the high positions including those of the party As only twenty-odd thousand Jews have thought it worth their while to go there, Biro-Bidjan is hardly a solution for whatever

[5] *Bulletin*, January 28, 1949, pp 45-48 There were thirty regions in 1945 in the R S F S R

[6] See *Bulletin*, January 14, 1948, p 22, for the list for the local elections No doubt by 1949 there have been changes In the whole U S S R there are about 4000 districts and 1200 cities

Jewish problem exists in Russia As a homeland Biro-Bidjan does not seem to have the appeal that draws so many Jews to Israel [7]

## *CONSTITUTION OF THE USSR*

The Union of Soviet Socialist Republics is federal in form, having a central government as in Washington and the sixteen union republics corresponding to the states of the American union One is preponderant the RSFSR (Russian Socialist Federated Soviet Republic), which has three-quarters of the area and more than half of the population and touches on the Baltic to the west and the Pacific to the east Second in importance is the Ukraine, and after it, White Russia (Byelorussia) The latest to join—against their will—are Moldavia and the four Baltic states, Lithuania, Latvia, Estonia, Karelo-Finland The republics—by design—have a tinge of race-consciousness notably absent from the American states as such Another difference is that the union republic must be on the border of the country The requirement arises from the Constitutional right of the republics to their own foreign policy and armies and the explicit power to secede from the union These rights remain on paper only, in practice, the Communist party treats separatism as counterrevolution and suppresses it sternly The most important difference from the American system is the position of the central government This body is supreme, indulges no separation of powers, pays no heed to the rule of law, requires the constitution and laws of the republics to conform to its own, and ignores the constitution if it desires It bestrides the Russian world like a Colossus and makes the country a highly centralized and unitary state, all professions to the contrary notwithstanding

The central government controls foreign affairs, the armed forces, the formation and nature of local governments, the economy, finance, and foreign trade and lays down basic principles for education, health, labor legislation, the law, courts, and citizenship As in other countries, it coins the money, operates the post office, and controls weights and measures These powers have remained essentially unchanged through the three constitutions of which the country has had experience since 1917

A first constitution was drafted by the party in a hurry and adopted by the fifth congress of soviets of the RSFSR on July 10, 1918, but was put into practice only lamely in the period of the civil and foreign wars 1918-1921 Other areas of old Russia joined as they became free of White and foreign occupation When things had settled down, the Communist leaders got out

[7] There are glowing accounts of Biro-Bidjan in *ibid*, May 14, 1947, and April 28, 1948 An article in the New York *Times*, February 15, 1948, takes quite a different view According to this, the capital has no public sewage system or water supply, a dozen brick buildings, a few small factories, and many wooden houses Buildings are dilapidated, transport is poor, and the place is in a state of interrupted breakdown This condition may be merely temporary

a second constitution, which was adopted by the second all-union congress of soviets in January, 1924

This constitution, ostensibly democratic, disfranchised several sets of people those employing labor for profit, those living on income not derived from work, private traders, ministers of religion, former servants of the Czar As the vote was open and for a slate of candidates presented by the party, the loss was no great hardship More serious was the accompanying lowest priority in food, lodging, and education, which made the disfranchised groups an underprivileged class The principle of inequality was carried into the system of representation, the number of deputies to the all-union soviet and the soviets of the constituent republics was one for each 25,000 city voters and one for each 125,000 country voters, chiefly independent peasants and suspect of capitalism The deputies were chosen by the local soviets, well under party control Two principles were laid down (1) The deputies of the industrial working class should outweigh those of the country in defiance of population statistics, (2) the party should approve the deputies of both A natural consequence was that the deputies had little to do and did that little as they were bid

The feature which attracted the attention of students in government was the so-called vocational representation Local elections in towns took place in production units or trade-union buildings where the masses of workers congregated Artisans, housewives, etc , went to the nearest of these places to cast their votes, and the tendency was to encourage the deputy to think of himself as representing an occupational group although he was not required to be of such The accepted policy was to make the local soviets large, to associate as many as possible with the work of government In villages, where election was by geography, a hundred was set as the desirable number In cities of 3000 population, there would be a deputy for fifteen to twenty voters, in large places like Moscow and Leningrad one to 1500 The soviets of village areas and cities sent deputies to the district congress, which elected to a territory or region congress This elected to a republic congress, which elected to the all-union congress of soviets In effect, the workers' group predominated and the wishes of the party prevailed

The all-union congress, of over 2000 delegates, was supposed to meet every year In practice, it met every three or four years for a few days at a time It listened to speeches from the leaders and went through the motions of electing a central executive committee, the list being submitted by the party heads

The central executive committee corresponded to the legislature of western countries and formed two houses—the soviet of the union, elected on the weighted basis of population, and the soviet of nationalities, five members from each of the territorial divisions of the union—which reflect faintly the House of Representatives and the Senate of the American union The central executive committee accepted the list for the presidium or steering committee

of eighteen members The chairman of this group was titular head of the Soviet Union, accredited Russian envoys going abroad, and received ambassadors The central executive committee also assented to the list for the Council of Peoples' Commissars, to do the work of a cabinet

The chairman of the presidium for many years was the old peasant Kalinin, who lent an air of dignity to the post The present occupant is Nikolai Shvernik, who is of the working class and has been active for many years in the trade unions According to reports, he is often busy receiving a long line of common people with grievances He listens, and gives them advice or refers their troubles to the right agencies, and if he has complaints by letter, he deals with them in the same way We may presume a careful selection and prompting of his customers, as there are so many other agencies to redress permitted grievances The benevolent patriarch is thought to be a useful addition to the Soviet company of players

The initial success of the five-year plans favored a revision of the constitution The urban population had increased from 28,000,000 in 1929 to 56,000,000 by 1939, and the majority of peasants had been herded into collective farms under perfect control It was safe to allow more equality, and to this end a third constitution was drawn up by party leaders and adopted by the eighth congress of soviets on December 5, 1936, which became a national holiday At the time, there were eleven union republics, now there are sixteen of them, nineteen autonomous republics, nine autonomous regions, ten national areas

The constitution of 1936 has the merit of brevity, requiring only thirty pages of a small booklet It has thirteen sections and no fear of the number The first section is on the organization of society and declares the socialist economy Natural resources and economic enterprises belong to the state, property belongs to the state, to cooperatives, or to collective farms The law nevertheless permits individual peasants and handicraftsmen to pursue a private enterprise provided they hire no labor, and it assures the households of a collective farm the personal use of houses, plots of land, and livestock It admits to all citizens the right of personal ownership of income from work and savings, of houses, furniture, utensils, and articles of personal use and convenience The prohibition of hiring does not extend to domestic servants, whose help in production is considered indirect and negligible

Section II is on the organization of the state, it lists the powers of the central government and describes the chief component parts of the U S S R Section III is on the high organs of state authority, i e , the legislature of the U S S R Section IV is on the organs of state authority of the union republics, their constitutions and legislatures Section V describes the organs of government of the U S S R , the Council of Ministers and its work, Section VI, on the organs of government of the union republics, similarly describes their councils of ministers Section VII deals with the autonomous republics, Section VIII

with the organs of state authority, i e , soviets and executive committees of territories, regions, autonomous regions, districts, cities, and rural localities Section IX is on the courts, Section X on the fundamental rights and duties of the citizen, Section XI on the electoral system, Section XII on arms, flag, and capital, Section XIII on procedure for amending the constitution




South-Central Asia, showing the union republics of Kazakhstan, Turkmenia, Uzbekistan, Tajikstan, and Kirghizistan

## *ELECTIONS*

By the Stalin constitution of 1936, exclusive legislative power was vested in the Supreme Soviet of the union This body is elected every four years and consists as before of the Soviet of the Union and the Soviet of Nationalities but by reason of the war has been elected only twice, in 1937 and 1946 Indirect election and the inequality of town and country were abandoned, the Soviet of the Union is elected directly by territorial districts on the basis of one deputy for 300,000 of the population, or 682 for the whole union in 1946 The minimum age of the voter was eighteen, of the deputy twenty-three at that time The Soviet of Nationalities consists of twenty-five deputies from each union republic, eleven from each autonomous republic, five from each autonomous region, and one from each national area, to a grand total

of 657 in 1946[8] The meeting is in St George's Hall in the Kremlin Palace, Moscow A deputy has parliamentary immunity, he is not to be prosecuted or arrested without consent of the Supreme Soviet in session and of the Presidium between sessions He has free railway travel, pay in session, and a monthly allowance out of it for keeping his constituents in the right mind and humor The Presidium may order elections any time and will convoke the houses within a month of the event

In the election, everyone of age eighteen or more may vote except the insane and prisoners whose sentences include loss of political rights, a large class to be found in the labor camps The right to nominate candidates is granted to trade unions, collective farms, cooperatives, youth, scientific, and cultural societies, and the Communist party, hereafter called nominating organizations The trade union calls a public meeting in the factory, asks for nominations, and gets one, often made by a nonparty man for the sake of appearances The one is likely to be a person who has distinguished himself in production A would-be dissenter will merely ask whether the comrade is able to fulfill his task, and will have the answer that the party will guide him The presiding official declares the man or woman to be the choice of the union by acclamation The public qualification in 1946 was age twenty-three, the private qualification was congeniality to the party, assured before the meeting began Other nominating bodies act in the same way, and all send the names of their choices to the commission of the electoral area

There are three sorts of commissions in national elections (1) a central commission in each republic, appointed by the presidium of its soviet, (2) a commission in each electoral area, appointed by the central body, (3) precinct or poll commissions, appointed by the local soviet By the electoral law, all three commissions "are formed on the broadest democratic foundations and are made up of representatives of diverse public organizations and societies as well as of persons nominated at general meetings of working people" This implies that part of the personnel of the commissions is suggested by the nominating organizations, but how far this arrangement is carried out is uncertain[9] The Presidium of the Supreme Soviet of the U S S R marks out the electoral areas at least two months before the elections

The central commission is the highest public body for the purpose, it organizes the others, sees that regulations are obeyed, and takes complaints The area commission registers the candidates, supplies ballots and checks the work of the executive committees of the soviets These form the precincts, appoint the commissions for them, and compile and publish the voters' lists from a personal canvass and the registers of residents Publication is thirty days before election to give a chance for complaints The precinct commis-

[8] The numbers included twenty-six places in each house for the armed forces abroad, which is a temporary arrangement

[9] "Electoral Laws of the U S S R" *Bulletin*, February 12, 1947, pp 5-7

sion informs voters of the time and place of the poll, manages the poll, counts the votes, and reports them to the area commission, which totals the lot and gives out the result A precinct is allotted from 1500 to 3000 voters (in sparse areas as few as fifty), and a train, a ship, an institution for the sick or the infirm In the 1946 election there were 147,000 of these polls

The nominating organizations register the candidates with the area commission at least thirty days before the election and submit the minutes of the nominating meetings or conferences and the written consent of the candidate The area commission reduces the list to one name for each place, of which there will be two or three—(1) the seat in the Soviet of the Union, (2) the seat in the Soviet of Nationalities, (3) the seat in the latter house to represent the subordinate national grouping, if the voter belongs to one The commission will act under instructions from the central commission in regard to the proportion of party and nonparty men among its candidates

Not later than twenty-five days before the election the area commission publishes the name, age, occupation, and party affiliation of each candidate and the name of his supporting organization It prints the ballots and gives them to the precincts at least fifteen days before election

On the ballot the candidate's name appears opposite that of his prospective office, with the details mentioned above He may stand in only one place and need not be a resident Two ballots will have the names of the delegates to the two houses of the central legislature, another will have the name of the candidate to represent the autonomous republic, autonomous region, or national area in the Soviet of Nationalities, if the voter lives in one of these In 1946, the ballot for the Soviet of the Union was white, that for the delegates of the union republic to the Soviet of Nationalities was blue, that for delegates of the lower national units was rose The voter's choice is to leave the names as they are or scratch one or all

The election campaign is a three-months' deluge of propaganda in the press, films, posters, public meetings, over the radio, and by agents called agitators, directed by the party organs These are chiefly young people who call at the houses, tell the voters what to do, and help get them out at the proper time Each agitator has a group of voters to whom he is shepherd Election day is a holiday with bands playing and people wearing their best clothes and dancing in the streets There is no anxiety, for all will turn out as planned

There are 682 constituencies for the Soviet of the Union, 657 for the Soviet of Nationalities, but the same precincts serve both with a slightly different distribution of the ballots The voter shows his identification paper to a clerk of the precinct commission, who checks his name on the voters' list and gives him two or three ballots, as the case may be He may fold them and drop them straight into the box for the ballots, as most persons do, or retire to a closed booth furnished with a shelf, pen, and ink to study the papers and scratch the

names if he wishes to do so [10] He may also spoil his ballot by marking it in some way or writing in a name It is not safe to stay at home, which would make him conspicuous, it is better to come and go through the motions The polls are open from 6 A M to 9 P M At the close, the precinct commission checks the number of ballots against the number issued, counts them in the presence of representatives of the press and of the nominating organizations, sets aside those spoiled, makes a record of the totals for and against the slate, and prepares a complete report to be signed by all members of the commission This goes to the area commission, which makes totals from all the polls, announces the result, and sends a report to the central commission, which shortly announces the final score

In these conditions extraordinary voting records are made In 1946, 99 5 percent of the 91,000,000-odd qualified persons voted Of the lot, nearly 820,000 or about 81 percent scratched the names of the candidates and indicated some kind of opposition Ten thousand ballots for the Soviet of the Union were invalid, 28,000 for the Soviet of Nationalities Of the elected members, 40 percent were workers, 30 percent middle class, 25 percent peasants

## *LEGISLATURE*

The houses meet twice a year for about a week at a time, February or March, and October being favored At the first meeting after election, each house organizes itself by electing a chairman, two vice-chairmen, committees for the budget, legislation, foreign affairs, and others as needed Sitting together as the Supreme Soviet, they elect the Presidium of thirty-one members, consisting of sixteen vice-presidents from the union republics and fifteen others among whom will be the president and secretary They also elect the members of the Council of Ministers, the Supreme Court, special courts, and the Prosecutor General

The Presidium convokes and prorogues the Supreme Soviet, interprets laws, issues decrees, controls the Council of Ministers, manages the constituent republics and lower units and annuls their orders if necessary, has charge of the armed forces, and appoints and removes commanders It directs foreign policy, makes and denounces treaties, and may proclaim a state of war It puts its orders into effect at once, enacts changes that amount to an

[10] New York *Times*, February 11, 14, 1946 "If a voter wished to read his ballot in private or possibly strike out the name of a candidate, he could retire into one of several booths behind drapes Or he could fold the ballots and deposit them immediately in a box at the far end of the room" (Brooks Atkinson, February 11)

We may remark that the person who went into a booth in these conditions would make himself conspicuous

"There was only one candidate for each deputy post and the only way to vote against a candidate was by scratching off his name which was printed on the ballot" A P dispatch of February 13, in the New York *Times*, February 14

alteration of the constitution, and waits for the Supreme Soviet to ratify them at the next meeting The chairman of the Presidium continues to be titular head of the state, and there is no president of the Soviet republic [11]

The meeting is in St George's Hall, furnished with rows of desks and chairs The members sit in a solid mass facing the platform, they are there to applaud, to pass legislation, and to elect as they are told Few will speak, and these will have a set piece to say There is a fair proportion of women and a show of minor ethnic groups in their costumes All are filled with reverence for the Soviet system and its leaders and feel a mild thrill in their dignity as delegates They can see the famous figures of the Presidium facing them on the platform and are in a receptive mood The houses do business either separately or together, the two chairmen taking turns to preside They sit together for important government announcements and separate to consider them, they may meet again for final action

The credentials committee sees that there is no impersonation The legislative committee drafts bills, but the Presidium or the ministers may do this also The budget committee takes the proposals of the Minister of Finance and may suggest changes in policies and personnel of some departments It may even put on a show of heat over failures and embezzlements but will reach an agreement with the minister The budget will be approved, the legislative committee will take the floor and present bills There will be short discussions, the ministers will give their opinions on the bills All will soon agree on them and will pass the bills by unanimous voice vote The houses will ratify decrees and orders of the Presidium and the Council of Ministers, and all will be harmony

If the houses cannot agree on some measure, they may refer it to a joint commission If there is still no agreement, the Presidium may dissolve them and order new elections, but this has not happened and will not happen while the party retains control Laws pass by a simple majority of both houses, constitutional changes by a two-thirds majority, but so far all votes have been unanimous, and everything moves with speed and precision In succeeding sessions (after the first) there will be no need to organize the houses or elect the great men, except to fill vacancies, and the chief business is the speech of the Finance Minister, which is a report on economic progress

We may take an example from the first postwar session in April, 1946 After organization, each house heard a report on the work of the Presidium from its secretary Both houses then sat together to hear an exposition of the new five-year plan from the chairman of the planning commission, Gosplan The Council of People's Commissars, including a certain Joseph Stalin, presented its collective resignation A woman deputy from the

[11] *Bulletin*, February 11, 1948, pp 80-81 On March 19, 1946, the Supreme Soviet elected 182 officials of the highest importance in an hour and a quarter, i e , as fast as the names could be presented New York *Times*, March 21, 1946

Ukraine moved a vote of confidence in it and an invitation to Stalin to form a new government and submit it to the chambers This motion passed unanimously A deputy of the R S F S R proposed to call the councilors ministers instead of commissars and had a prompt and unanimous acceptance by an oral vote

Now the houses went to work on the five-year plan They heard remarks from several deputies about the special problems of their districts and complaints that the plan did not go far enough The chairman of Gosplan referred the proposals to the Council of Ministers and said that there might be a chance for alterations in the annual plans under the five-year plan On this understanding the plan was accepted and committees were appointed in each house to put it into legal form The houses chose their committees of the budget, legislation, and foreign affairs When they had finished work under this heading, they met in joint session and had a bout of electing Stalin's list of ministers, the Presidium, the judges, the Prosecutor General—182 officials in an hour and a quarter Stalin himself was chairman of the Council of Ministers, Shvernik of the Presidium, to the surprise of few in either case The houses adjourned, having got through business in seven days, two of which were recess This is quite a contrast to the House of Commons, which needs three-quarters of a year for its business

All the proceedings are reported in detail by press and radio as a great triumph of Soviet zeal and efficiency The delegates go home to proclaim the virtues and abilities of their leaders, the effectiveness of their policies and the progress of the union toward socialism, and to communicate this enthusiasm to their constituents, which is the most important part of their duty [12]

## *BILL OF RIGHTS*

The constitution has a bill of rights (Section X) which seems to correspond to the declarations of rights in French and American constitutions and to the English Bill of Rights of 1689 Unlike them, it lays stress on social and economic advantages, the rights to work, to rest and leisure, to education, and to support for the infirm, i e , the aged, the sick, the incapacitated This is a code of state morality rather than constitutional law If a citizen should

[12] The session beginning March 10, 1949, may be more typical of the postwar period The keynote speech was made by Finance Minister A G Zverev and was largely a report on economic progress He found fault with the production of luxuries easy to make, like perfumes, rather than goods of more practical value and told industry in general that it must concentrate effort not alone on quantity production but on the specific demands of the Russian public In this aspect the plea indicated a divergence between the national plan and the demands of consumers, which will not be the last of its sort The speech was a good deal like that of the Chancellor of the Exchequer in London, although covering a wider range

Towster, *op cit*, pp 250-263, has the best account of the elections and work of the Supreme Soviet

take it too literally and, relying on it, defy some executive order, he would soon find himself under duress. Any of these so-called rights may be altered or withdrawn at any time by executive decree.

The best-known clauses of this section are 122-129. They proclaim the equal rights of men and women and of all races and nationalities, the separation of the church from the state and of the school from the church, the freedom of religious worship and of antireligious propaganda. They declare the freedom of speech, the press, assembly, street processions and demonstrations, and of union in public organizations, they assure the inviolability of home and correspondence and freedom from arrest except by decision of a court or on the warrant of a procurator. These rights, however, are declared to be in conformity with the interests of the working people and to strengthen the socialist system—in short, to promote official ideas. Used any other way, they would bring the user into serious difficulties.

The citizen has duties which need no qualification. He must abide by the constitution, respect the laws, keep labor discipline, and safeguard socialist property. The last point is emphasized by a separate sentence: "Persons committing offences against public, socialist property are enemies of the people"—a precise statement of the priority of property over humanity ascribed by socialists uniquely to the capitalist system. The citizen must perform military service and defend the state in every way, and finds his duties much more obvious than his rights. By Article 123 of the constitution he may not incite to hatred on account of race or religion and he may not insult representatives of authority. In these conditions, he can understand if not approve the laws of caste, privilege, immunity, and *lèse-majesté* once thought to belong to the feudal age and now reappearing in many quarters.

We may note in conclusion that this bill of rights was promulgated immediately before the great terror and the violation of elementary rights of humanity on a scale unrivaled in the history of the country.

Private property is defined in Article 10 of the constitution: the right to personal ownership of incomes from work and savings, (including bonds), of dwelling houses, furniture, utensils, and articles of personal use and convenience. These things may be inherited on the basis of a will or in its absence, as the law directs. Legal heirs are children, spouses, parents, and other, incapacitated, persons who depended on the deceased for support at least a year before his death. If the heirs of the requisite infirmity refuse the bequest or do not exist, the estate goes to the parents even if able-bodied or, if they are not alive, to brothers and sisters. If there is no will, the property goes in equal shares to the recognized heirs.

A testator may bequeath all his property or part of it to one or several heirs, or to the state or some public organization, but he may not deprive heirs not of age or unable to work of the shares they would have had if he had died intestate. One man bequeathed all his property to his wife, assuming

she would care for their young son, but the law had no such faith in her, quashed the will and gave the son his rights The principle seems to be that nearness of blood and physical infirmity have absolute claim If there are no living persons entitled to share in the property, the testator may leave it to any person, institution, or organization [13]

## *WOMEN'S RIGHTS*

Among rights naturally are those of women, and socialists have always been feminists and advocates of the equality of the sexes The Communists from the moment of the Revolution sought to practice the principle and announced it in all their statements of rights, e g , Article 22 of the constitution of 1936 Lenin wanted to free women from domestic slavery, i e , housework It is not clear whether he classed his wife among slaves of this nature She did nothing but keep house for him until late in life she became head of the women's department of the Communist party, a job of political organization like many which fall to prominent women in other countries Whatever discussions Lenin and Krupskaya had on the subject in private, it is clear that she never regarded herself as a menial but considered housekeeping for him a task worth the best efforts of a devoted wife

That single women should work for a living was taken for granted in a socialist state, but married women had home jobs and might not find others readily available The five-year plans, however, required all available labor and drew on the reserve of married women Those in the cities were set free by the reduction of the home to a room or a part of one and the provision of nurseries in factories and offices Only the wives of important people like managers, heads of police, commissars were exempt from the requirement, having large houses to manage and servants to direct Of late, this group seems to be increasing, to judge by the female deputies in local soviets who are classed as mere housewives But we may assume that the great majority of Russian married women work out of the home Russia can hardly do without women's labor, as they exceed the men greatly in numbers—by over 7,000,000 in 1939 (88 8 million women, 81 6 million men)—a result of the wars and purges of twenty-five years

They do labor of the hardest kind, in the forests, mines, on farms and ships, by day and night, in an application of equality from which western feminists shrink Among the tasks mentioned by observers are breaking concrete, building roads, moving lengths of rail, laying crossties, digging ditches, carrying bricks, repairing telephone lines, painting houses—beside which directing traffic in cities seems better suited to their physique There is no hint in official publications of the discomforts of the mother of a family

[13] *Bulletin*, July 28, 1948, p 430 V Gsovski, *Soviet Civil Law* (1948), pp 64-69, analyzes the bill of rights Chap 17 is on inheritance

who does such work She spends eight hours at labor, an additional hour or more taking her children to and from school, and must find time to buy groceries, get meals, clean the room, put the children to sleep in it while the adults move about, and finally to mend clothes, at the conclusion of a sixteen-hour day

On the other hand, women may go to schools and qualify themselves for any occupation they wish, for Soviet Russia has careers for feminine talents In 1941, 11,000,000 women were in industry, 19,000,000 were on the collective farms, 170,000 were engineers and technicians Half a million were railroad workers, 200,000 were tractor and combine drivers, 73,000 were doctors

In 1948 whatever statistics were available showed increases in these figures Women physicians numbered 126,000, one woman is a full member of the Academy, nine are corresponding members of it Women are 50 percent of the student bodies in colleges and universities, and 20,000 of them teach in these institutions Of the million and a quarter schoolteachers, 800,000 are women Two million are employed in one way or another in the public education service

The greatest progress is in the Moslem areas In 1917 there were almost no literate women in Kazakstan, now 24,000 are teachers or lecturers in colleges there One hundred and forty are doing postgraduate work in the local academy of sciences, fifty-six have doctor's and master's degrees In the Kirghiz S S R women are one-third of the deputies of the local soviets, and ninety have been elected to the supreme soviet of the republic In the Uzbek S S R 400,000 are working in industry In the Tashkent textile mills 380 women are in leading positions as superintendents, foremen, team leaders, 200 women workers have acquired a college education and have become engineers

The party has made an effort to place women in most branches of public life in the U S S R Of the 1339 deputies to the Supreme Soviet of the union 227 are women, more than in all the other Parliaments of the world That all they do is come, vote yes, and go is probably not much of an offset in the eyes of these Soviet women Among the deputies to the supreme soviets of the union republics and autonomous republics are 1738 women, on local soviets, half a million A few are ministers in the union republics, one is Deputy Minister of Health in the U S S R Fourteen judges out of seventy on the Supreme Court of the U S S R are women, as are forty of the seventy-five members of the supreme court of the R S F S R Half of the members of the courts of the regions and territories are women, as are 35 percent of the judges of the people's courts Fifteen thousand are chairmen or assistants on collective farms More than 250,000 are specialists and executives in industry, one is captain of a ship It is necessary to point out that no women are yet to be found on the high policy-making bodies like the Polit-

buro, but beyond doubt, women play a part in whatever public life exists in the Soviet Union [14]

## *LAW AND COURTS*

Many nineteenth-century socialists thought with Marx that the success of their system would eliminate the state and take to limbo the whole apparatus of law as an arrangement for coercion, which would no longer be necessary They saw nothing but defects in existing law and charged it with perversion of justice and bias for the few and against the many, particularly the industrial workers They disliked cramping of free speech by laws in restraint of criticism and were vehement about the right of expressing opinions Looking on law and courts as hostile institutions, many Communists expected to do away with them after the revolution of 1917

Lenin had dabbled in these ideas but in power was realistic and provided courts for normal crimes and extraordinary police and courts for the harboring of wrong ideas and performance of wrong acts There has accordingly been a great growth of Soviet law to cover the wrongs of individuals and disputes arising from the vast economic activities of the state Russia keeps the divisions of civil and criminal law and has a unique dominating principle —that what hurts the state deserves much more punishment than what hurts the individual Persistent lateness for work is a more serious crime than murder The Communist party decides what is good for the state and allows no question of its principles and aims Soviet law accordingly exhibits all the alleged defects of capitalist law, on a larger scale and with rigid application The mote in the eye has been replaced by the beam [15]

Socialists were also suspicious of lawyers as bourgeois parasites, and for some time after the Revolution the Communists were reluctant to admit the

[14] *Bulletin*, March 11, 1949, pp 143-147 The *Bulletin* of March 17, 1948, is largely devoted to women

One instance of women in industry is Anna Severyanova, manager of the Trekhgornaya Mills near Moscow Born in 1908, daughter of a conductor on the Bryansk railway, she went to school, worked in the mills several years, continued to study, qualified herself, and became manager of this important textile plant

In politics, the best example is Zoya Andreyevna of the Chuvash country, an autonomous republic on the upper Volga, 7000 square miles with a million population Born in 1898, she became a teacher in her village and did good work among the women In 1925 she was elected assistant chairman of the executive committee of the local soviet This duty done, she went to school in Moscow, came back in 1933, and was shortly People's Commissar of Social Welfare, the first woman minister of Chuvashia In 1938 she was elected deputy to the supreme soviet of the Chuvash Republic and became chairman of its presidium She was elected deputy to the supreme soviet of the RSFSR and to that of the USSR in 1937 In 1946 she repeated with election to the supreme soviets of Chuvashia, the RSFSR, and the USSR and to the chairmanship of the presidium of the supreme soviet of Chuvashia *Bulletin*, March 11, 1949, pp 147, 152

[15] Gsovski, *op cit*, pp 163-192, reviews Soviet theories of law

need of the profession The expansion of Soviet law was soon too much for them, it required experts, law schools, and finally a complete legal profession Nevertheless, the Communists like to set laymen as assessors beside each justice According to the theory, he benefits from their untutored common sense and they from his learning Codes of criminal and civil law belonged to the republics until 1936, mostly to the Soviet Union from that date, but family and labor law remain with the republics subject to principles laid down by the union government The U S S R legal experts are at work on a revision of the codes to suit changed times and the whole country and have set no date for completion of their tasks

For many years, also, Communists disliked to admit that crime could be a personal matter It was, they argued, the product of a capitalist environment and would disappear with that The most the apparent criminal would need was a reorientation course to fit him for life in a socialist society, and Soviet Russia acquired fame in the 1930's for the penology of a few model prisons In the official view of the time, there were no crimes, merely acts of commission or omission dangerous to social relations, there were no criminals, merely socially dangerous persons Accordingly there would be no punishment, merely measures of social defense to secure the proper relation between the socially dangerous person and the society to which he was dangerous These badly adjusted persons might be confined, but solely with a view to changing their attitudes by persuasion

The theory was tried in model prisons like Sokolniki near Moscow for one- to three-year offenders It had the usual stone wall and guards but behind these trappings of capitalism was a school where prisoners learned to work, to govern themselves, to improve their education, and to share in wholesome recreations The prison had workshops, and here the inmates worked regular hours producing things useful to the public, which were sold at regular rates They wore no uniforms, they had the same wages as if they were free, less an allowance for food and lodging They might buy food or ordinary small articles A well-behaved prisoner might get leave to visit the family on occasion of illness or death, or to work in a factory or on a farm for as much as three months Groups would compete with each other in production and hope to attain the honor of shock brigade with attendant increase in pay Prisoners were graded, and as each rose in classification, he had more privileges and fewer restrictions Two good workdays might equal three of his sentence Model conduct in this and other respects might reduce the term to one-third of its original length From papers, posters, films, lectures the inmate would learn that he had been on the wrong track and should adopt the right attitude to society at large Politics were not forgotten, he was instructed to respect the party and follow its teachings

In these prisons there were no chains, loss of food, corporal penalties, solitary confinements The prisoners slept in dormitories, ate in dining halls,

worked, played, and learned together They had self-government under supervision, they held a general meeting and elected a soviet and the personnel of the comradely court—a judge, two assistants, a prosecutor, a defense counsel The courts sat in judgment on breaches of the rules, thefts and assaults, the shirking of work or lessons, and issued penalties such as reprimands, censures in the wall-paper, limits on vacations or the visits of friends The warden, however, had the right of confirming the sentence or reviewing it

Much stress was laid on education, there were classes for illiterates and for elementary and advanced pupils and lectures on many topics The prison had radios in the rooms and an auditorium for films and meetings The inmates might form a drama society, give plays and even write them, and see stock companies from time to time They had sports groups and arranged indoor and outdoor games They formed orchestras and gave concerts, interrupted by readings, and of course they had a library They might have visitors up to three at a time and send and receive letters under the warden's right to inspect They learned the elements of sanitation and had the services of doctors, dentists, and nurses

In a women's model prison all the guards were female and had guns, bayonets, and pistols Each wore a white blouse, dark skirt, gun belt, and cap Visitors did not talk to the inmates across a screen, but over the counter in the presence of a guard who apparently did not listen The work was chiefly with cloth, which was sold to cooperatives Recreation and education had due attention, as with the men The inmates numbered 360, half of whom were awaiting trial

Mothers had every facility for their comfort, leaves to have their babies, a nursery with nurses, cribs, and laundries, operated by the women themselves, a play yard and schoolroom for the runabout children Advice was available for mothers and children on all aspects of health

These, as we have said, were model prisons We have no account of the others and cannot say anything with confidence about their operation It is clear that they had some difficulty in attaining their principal object, i e, curing the inmates of antisocial attitudes, we read of one girl back for the ninth time for theft, who used prisons as mere bases of operations and rest homes between spells of professional activity For this reason, it is reported that the freedom of these prisons is greatly curtailed, and great stress is laid on personal guilt, as in dark capitalist countries There is no recent account by which we can measure present conditions in these reformatories At any rate, confirmed criminals are now sent to the forced labor camps [16]

A recent list of penalties for criminals is as follows a fine, an order to remedy the damage, social censure, prohibition of work in some industry, dis-

[16] Mary S Callcott, *Russian Justice* (New York, 1935), chaps 10, 11, 12 See D J Dallin and B I Nicolaevsky, *Forced Labor in Soviet Russia* (New Haven, 1947), chap 1 for the camps

charge from a job, loss of political and civil liberties, hard labor without confinement, confinement (i e , with labor), expulsion from the U S S R , a public declaration that the person is an enemy of the working people The last penalty is not explained but is ominous enough as it stands [17]

By the law of organization of courts in 1938, court proceedings are public except in cases like those of state secrets, and the judges are independent except in respect of the government Local languages are to be used, if a litigant does not know the language of the court where he appears, he may demand an interpreter and use his own All persons are equal before the law unless they offend the party or state security The Supreme Court, the all-union Ministry of Justice, the Public Prosecutor of the U S S R direct the court system There is no jury at any stage, Russia having reverted to the practice of the Czars before Alexander II

Arrest is by written order if possible, but omission in this respect can be corrected after the event If the arrest is illegal, the sufferer may appeal to the Prosecutor General of the U S S R , who has a section for such claims But if the arrest was by the secret police, he may as well save his effort There is a preliminary examination, and the accused may require the Prosecutor to formulate charges definitely and may submit evidence himself After the examination he may study the evidence Trial is by indictment, citing evidence and the names of witnesses The accused may have counsel, bring evidence, cross-examine witnesses, if he has no counsel, the court must provide one, and it must explain his rights to him A sentence is quashable for wrong procedure, and the official at fault may be prosecuted, as does happen But all these safeguards are swept away if the safety of the state is thought to be concerned

There are two kinds of local courts comradely courts and people's courts Comradely courts can be set up in factories, apartment houses, prisons, etc , to deal with petty disputes The officials, elected at general meetings, have no legal training and rely on their common sense They give reprimands, public censure, and fines and from the meager reports available seem to do a good job

The people's courts are lowest in the succession of regular courts and take cases of first instance in a wide variety of crimes and civil matters, e g , theft, murder, abuse of power, nonpayment of taxes, occupancy of housing, breach of labor rules, alimony, inheritance Each court has a judge and two lay assessors Candidates of both sorts are nominated at meetings or organizations and societies as in other elections, and someone (presumably the soviet) reduces the list to proper size, preferring persons with records of good work The judges are elected for three years, fifty to seventy-five assessors are elected in each city or district at the same time and in the same way The assessors serve in rotation, each pair for not more than ten days except to

[17] *Bulletin*, October 8, 1947, pp 14-15

finish a case and they receive normal wages in their absence from work Women form a high percentage of candidates and occasionally monopolize the bench These people's courts are also called district courts, as there is one to a district or city, they take the vast majority of civil and criminal cases [18]

All three on the bench, judge and assessors, decide fact and law with equal weight, like the J P 's in England, one against two may record a protest The judge presides and acts on behalf of the court, but the assessors enjoy the same rights, and in the judge's absence one of them may discharge his duties They are expected to give simple justice, i e , what the public expects, and they may be recalled by the voters or eliminated by sentence of a superior court Naturally, only persons approved by the party will reach the bench [19]

The proceedings are informal, witnesses interrupt and shout at each other and the spectators join in the noise One case in 1947 was of a man who stole sixty-two copies of a newspaper He appeared before a court composed of a man and two women and a crowd of spectators six deep and received a year at hard labor, the papers being state property Another case was of conflicting claims to a room and was heard amid two hours of shouting, arguing, and calls to order by the woman judge She and the assessors retired for an hour and finally announced the verdict—that the former occupant had no right to the room and that the claim of the present holder should be investigated, which was probably fair enough Lawyers may be present but

[18] The election is conducted in typical Soviet fashion Posters, the radio, the press announce the time and place The papers publish the election regulations, campaigners give addresses in palaces of culture, factories, farms, etc , on the election laws and the operation of the people's courts Each republic publishes a set of regulations to govern the election—the organization of election precincts, the location and management of polling stations, the procedures for voting and counting the ballots

The local soviets carry out the regulations and set the date for elections, usually Sunday (Friday in the Moslem areas) They compile the lists of voters, all persons over eighteen, sane, and not deprived of the right by court decree Twenty days before the election they post the lists for public inspection and invite complaints, and in the course of time they correct errors and omissions They register the nominees, appoint officials for election precincts, and prepare the ballots While these preliminaries are in progress, the incumbent judges and assessors report on their work to public meetings of the organizations and societies Elections are like those for national and local soviets A candidate must get an absolute majority of the votes cast, if no one does, a run-off election will be held within two weeks between the two highest on the list Penalties up to two years' confinement are provided for fraud, violence, bribery, etc , and longer periods for officials The candidate must have the franchise, be twenty-three by election day, and be free of conviction by a court

For the elections in March, 1949, 13,000 agitators' groups were formed with over 300,000 agitators who made or gave 150,000 reports, lectures, and addresses The voters, according to our authorities, had two faults to find with the courts (1) leniency to speculators, embezzlers, cheaters, (2) poor organization, which compelled witnesses and litigants to waste long hours *Ibid* , January 28, 1949, pp 50-52, *Current Digest*, February 8, 1949

[19] *Ibid*

are often ignored in such neighborly disputes Penalties are usually fines or hard labor in a correctional camp Even murder draws a maximum of ten years, and the labor of the convict is not wasted, as in capitalist countries, which hang, guillotine, or electrocute him In 1947 the death penalty was abolished in peacetime in favor of labor sentences up to twenty-five years Whether this applies to political crimes is not clear

The model judge of Moscow is Tamara Arzhanova, thirty-eight in 1948, wife of a civil servant, mother of three children and herself daughter of a miner, graduate of a law institute and four times elected people's judge For two mornings and three evenings a week she receives people who want advice on their disputes, reconciles husbands and wives who are thinking of divorce, induces plant managers to revise decisions about workmen In half a year she made fourteen reports to constituents on her work She gives lectures on law to working people to prevent violation, she carefully instructs her assessors in the law and procedure She has given two highly popular verdicts a severe sentence on the head of a supply department of a plant who appropriated for his own use some building material intended for workmen's dwellings, and reinstatement of a storeroom clerk who had been unlawfully dismissed Another woman judge was originally at work in a factory and was elected assessor She took a correspondence course from the Moscow Judicial Institute, was graduated in 1945 and elected judge One of the items in her education was that in bourgeois countries the juridical institutions are used as a means of suppressing the working class [20]

Above these district courts are courts in national areas, autonomous regions, autonomous republics, regions, and territories, all chosen by the soviets for five years They take appeals from the district courts and original cases of offenses against the state and litigation among public bodies Above these are the supreme courts of the union republics, also chosen by the republic soviets for five years, to take appeals, review the decisions of lower courts, and judge the crimes of members of high government bodies The judges are professionals and have assessors from a panel chosen by the soviet in each case They all take appeals and original cases For original work, the court consists of a judge and two assessors for appellate work, three professional judges who use the records of the first trial and do not conduct another They may confirm, reduce, or quash a sentence or refer the case back for retrial by a people's court of judges other than the first set Cases may go to a higher court at the instance of a litigant, the Public Prosecutor, or the Supreme Court of the USSR, which keeps constant supervision The supreme courts are composed entirely of party members, as are 80 percent of the personnel of the intermediate courts Removal comes through recall by the soviet or prosecution by the public prosecutor of the republic with approval of the soviet

[20] *Bulletin*, October 20, 1948, pp 632-634

The U S S R has a Supreme Court and tribunals for the personnel of the armed services, the railway and water transport systems, and civilians who meddle with these services Appeal from the special tribunals lies to the Supreme Court of the Soviet Union, elected by the Supreme Soviet About fifty professional judges are so chosen for five years at a time, and a panel of twenty-five laymen is chosen to help them The present chairman of the Supreme Court is A A Volin, replacing Ivan T Golyakov The court has original jurisdiction over what it deems to be matters of national importance, and while so acting, consists of a professional and two assessors As an appellate court, it is three professionals It takes appeals from the tribunals and the supreme courts of the republics and can review a case from any court without an appeal It does not trouble about constitutionality, which is a matter for the soviet to correct after the event The Supreme Court has five divisions, each called a collegium for the armed services, water transport, rail transport, civil cases, and criminal cases The first three review decisions of the courts with the same names

The Supreme Court has a special board of review called the plenum, composed of the professional judges of all the colleges or divisions under the presiding chief justice and vice-presidents This body meets every two months to hear cases protested by the Prosecutor General or the presiding judges It may reverse the decrees of any of the colleges and issue orders about court practice and procedure

The courts have a complete series of public prosecutors for the U S S R, the union and autonomous republics, the territories, the regions and autonomous regions, districts and cities, and national areas The Prosecutor General of the U S S R is elected by the Supreme Soviet and holds his post for seven years He has business not only with the prosecutions but with the courts, he brings cases of excessive leniency or severity to the attention of the Supreme Court and will look into claims of unjustified arrest He often protests cases in the lower courts and obtains reversals from the Supreme Court He takes personal charge of cases of serious counterrevolutionary activity, as did Andrei Vishinsky in 1936-1938 He appoints the prosecutors of republics (both sorts), territories, regions (both sorts) for five years at a time The prosecutors of the union republics appoint the prosecutors of areas, districts, and cities for five years at a time but only under the approval and direction of the Prosecutor General of the U S S R[21] The latter accordingly is responsible for all the prosecutors He is a high party man and he alone refers cases of officials to the courts In short, he is a great power in the Soviet Union

Legal education is to be had at a law school or in the law faculty of a university, requiring four and four and a half years respectively The best school is the Moscow Law or Judicial Institute The students have a compre-

[21] Towster, *op cit*, pp 296-308

hensive course by our account, theory of law and the state, the constitutional law of Russia and other countries, Roman and civil law, criminal and civil procedure, forensic medicine and psychiatry, administrative and labor law, international law, political economy, historical materialism, and a foreign language Instruction is by lectures, seminars in real and mock cases, and the writing of papers The student has two to three months' practical work in a court or a prosecutor's office before graduation, and takes examinations before a government committee As in other professional schools, he has a living allowance from the government

After graduation, he usually works three to six months in a lawyer's office or a legal advice center, draws up documents, learns the routine, and gets pay from the lawyers' collegium All this sounds imposing, and no doubt benefits a number of students to the full But it is possible to get a law degree by correspondence, as is often done by persons with experience, e g , as assessors, which indicates no high standard

The lawyers in a region or territory form a collegium of advocates, like the bar associations of other countries This body holds general meetings and elects a presidium for two years to look after the members and keep them within the official line It admits not only graduates of schools but persons to whom the Ministry of Justice issues certificates without the qualification The peculiar Soviet contribution to the practice of law is the legal advice center, one to a town, under a director All the local lawyers are attached to it and keep hours there, although they have their own offices and hours for them They give free advice and information on questions concerning alimony and workmen's compensation, otherwise, they charge fees The director assigns them the cases and determines the fees Both these fees and those charged in the private offices are according to a scale set by the Minister of Justice of the U S S R Student clerks serve in these centers until the directors certify them to the collegium, which is their call to the bar

This system of legal education leaves much to be desired Statute does not require a judge to qualify himself in it, and the various soviets consider membership in the party more important than legal certificates In the 1930's half the judges had no legal training at all, two-thirds of those in the higher courts and four-fifths of those in the lower courts had little more than elementary education In 1947 the federal Minister of Justice could state that in many regions, territories, autonomous republics the judges had no higher education It is clear that the education of a Soviet judge is much poorer than that of his colleague in western countries Of course it is capable of improving and no doubt this is taking place [22]

[22] *Bulletin*, February 11, 1948, p 90, Gsovski, *op cit*, pp 242-244, 850-855 The government appoints notaries on salary to take depositions, certify copies and signatures, make out certain classes of papers, like mortgage certificates, and keep some classes of records They correspond in a small way to the solicitors

## *SECRET POLICE*

The secret police are at present in two divisions, the M V D and the M G B The M V D is the Ministry of Internal Affairs, responsible for the internal safety of the Soviet regime, and employs soldiers and blue-coated police The M G B, the Ministry of State Security, is responsible for espionage and counterespionage in and out of Russia and naturally does not give uniforms to its agents Often it gives orders to the M V D police, who carry them out Both groups are coordinated by Lawrence Beria, head of the organization since 1938 He was born in 1899 in Georgia of a poor peasant family, joined the Cheka after the Revolution, and remained undistinguished until he wrote a book to refute Trotsky's charge that Stalin was insignificant in the party until the Revolution This literary effort brought him rapid promotion to the headship of the organization on the fall of Yezhov in 1938, but must have been supported by administrative ability to justify the unprecedented tenure of the post Beria is also in charge of atomic research and the large staffs, equipment, and establishments required for it

The M V D has a formidable array of assistants and employees All the executives and nearly all the employees are party members It has armed forces of its own in units and uniforms, estimated at 600,000, and camps and barracks for them, and also not only infantry but artillery and aviation These troops are better paid than the army and in the war served only for a few short periods at the front The M V D has a special division to check on the army and gets reports from the political commissars It has border guards to prevent unauthorized entrance or exit of men and goods It has guards over its prisons, camps, and mines It has engineers, technicians, and foremen for its construction projects It has departments to keep records of all Soviet citizens and check their possession of papers These include (1) identification papers, (2) labor book, (3) documents on military status, (4) permit to live in a particular locality The police may demand these at any time from anyone and will arrest him if he cannot produce them, they are the nightmare of the citizen The M V D employs informers in all walks of life, often released from prison for the purpose, who eavesdrop with great assiduity

One aspect of the duty is to watch the universities and other institutes of higher learning The M V D coordinates the work of party secretaries, trade-union secretaries, watch committees and secret bureaus and listens carefully for remarks by students or professors It even reads theses for deviation from the party line It has agents at social gatherings of students or faculty, eager to pick up a jesting remark which might have a political flavor It has stenographers to get verbatim reports of lectures if the professor is suspect and it seems to be the hardest-working institution on the campus

For the outside world, the hard-labor camps are objects of most interest The M V D has got rid of practically all the *kulaks* who thronged its com-

pounds in the early days of the five-year plan and of the prisoners of war from Germany and satellite countries It must rely on Russia for its supply of prisoners and gets the hardened ordinary criminals and the offenders against state security These fall into three groups (1) persons with counter-revolutionary intent, who earn the heaviest penalties, though capital punishment is not supposed to be applied since 1947 (among these persons are those from annexed regions like Latvia, Estonia, Lithuania who dislike Russian rule), (2) persons who commit acts dangerous to the state without counter-revolutionary intent, like incitement to mass disorder, evasion of military duty, counterfeiters, smugglers, inciters to racial hatred, (3) persons who offend the state without immediate danger to it, e g , for nonpayment of taxes, insults to representatives of authority, maltreatment of state property, abuse of office, willful absence from work The last two classes are confined for definite periods of time and are subject to correctional education for their bad ideas The fashionable guess of 15,000,000 for the persons detained by the M V D is almost certainly too high A more credible figure is 5,000,000

As during the terror of 1936-1938, the policy of the M V D is to force a confession from the prisoner, which dispenses with the need for further investigation They interrogate him for long periods, using relays of questioners and going over the same point several times to catch discrepancies The prisoner is kept standing under bright lights and may have a drug to prevent him from going to sleep He is not subject to physical torture but finds ordinary methods bad enough He cannot obtain help in his defense and has no right of appeal He may only write a letter to headquarters in the Lubianka Building in Moscow and may never get an answer The family may or may not be notified

With 5,000,000 persons on its hands, the M V D continues to be the greatest employer of labor in the Soviet Union It has several large construction and engineering projects like the deep Volga Canal, the Dnieper Dam and power It is said to have 125 camps in all, for railway construction and maintenance, canals, coal and gold mining, the making of highways, the manufacture of shoes and canned meat, etc By the account of one former inmate, the professional criminals have the better treatment, food, and clothes—not as a matter of policy but as a result of their organization and pressure Former officials under sentence soon insert themselves into administrative jobs about the camp The weight falls on the political offenders, who do the hard work in brigades of twenty to thirty under a leader and a foreman, both prisoners They work twelve hours a day, with one meal before and one after only, at 4-5 A M and 5-7 P M respectively Those who refuse work are put on a bread and thin soup diet, isolated, and may be shot Shoes and clothing are poor The living quarters are wooden barracks with bare bunks, no soap, little fuel The obvious consequence of all this is a high mortality There is nominal pay per month, the doctors do their best but have little equipment

The education department can do little as the men are too tired at night to learn The M V D keeps agents among the prisoners to hear what they say The camps for manufacture are somewhat better than the lumber camps [28]

The M V D provides guards for important persons like the members of the Politburo and takes extraordinary precautions against assassination It escorts foreigners and helps them in their troubles, keeps order at high functions, manages crowds, and is likely to place men outside churches and at dances It operates the Intourist agency and keeps hotels, cars, boats, guides, interpreters, everything for the comfort of Russia's paying guests—and of course listens to what they say It checks the resident foreigners, often using girls to entice them, especially ballet dancers It has a special division to watch the armed forces It has schools for many purposes, from stealing documents to evaluating the information about social and economic conditions in foreign countries, and is altogether a multi-sided institution

## *STATE AND LOCAL GOVERNMENT*

### Union Republics

The union republics have forms of government sketched in the constitution of 1936, to supersede earlier practices Each has a one-house supreme soviet elected for four years, a presidium, and a council of ministers The soviet is elected directly from geographic constituencies—in the R S F S R at the rate of one deputy to 150,000 people, in small republics like Azerbaijan at the rate of one to 10,000

The supreme soviet adopts a constitution in conformity with that of the U S S R and confirms the constitutions of the autonomous republics It approves the national economic plan and manages its budget in accord with the plan It elects a presidium with the customary chairman, vice-chairman, and secretary and appoints the council of ministers This body may suspend the decisions and orders of the autonomous republics for reference to higher authority and may annul the decisions and orders of territories, regions, and autonomous regions It has a chairman, a vice-chairman, secretary, chairman of the local Gosplan, people's ministers, representatives of the all-union ministries and the autonomous republics, and certain other members and is an inclusive and important body The presence of outsiders gives it more weight than the presidium under which it works

The supreme soviet meets twice a year, organizes itself and proceeds to the budget The minister of finance presents it, the chairman of the budget committee notes its conformity to the federal budget, makes his observations, and may suggest reallocation of funds among the various headings like industry, trade, forestry, recreation, health, education Deputies may find

[28] Dallin and Nicolaevsky, *op cit*, chap 1, Colonel James C Crockett, in Buffalo *Evening News*, May 6, 1949

fault, chiefly to the effect that their districts are not getting enough money or enough value for the expenditure The minister of finance and his critics will reach a compromise and the amended budget will be approved The soviet will approve the decrees of the presidium since its last meeting and adjourn after the customary week of session

As has been said, the union republics have the right to their own ministers of defense and foreign affairs since 1944 The Ukraine and Byelorussia, strong in local sentiment, send their foreign affairs ministers to the Assembly of the United Nations, the ministers are party men and sing the party song Other republics, like Armenia, have ministers of foreign affairs who stay at home The U S S R has its own Ministers of Defense and Foreign Affairs and charges itself with defense of the union and direction of all armed forces, and in these conditions there will be no conflict of views among governments

The following procedures are used in the elections to the governing bodies of the union republics The electoral areas, precincts stationary and in transit are as in national elections The polls serve for union and autonomous republics, which vote in the same place at the same time on different ballots The nominating organizations and societies send in lists of candidates, from whom (we presume) the presidium of the republic chooses the personnel of the election commissions These bodies assist the executives of the soviets in making up or checking the precincts and voters' lists The societies nominate candidates, the commission (we presume) reduces the number to one for each place The organs of government help to conduct the campaign, provide paper, printing, halls, radio, etc For the elections of 1947, 3,000,000 agitators were at work, 50,000,000 books and pamphlets were printed, 12,000,000 posters were put up—a great expense and effort for a bit of political acting In the R S F S R, 99 95 percent of the voters voted, 99 29 percent of whom were for the slate Those who scratched the candidates numbered 420,359, spoilers of ballots, 2790

### Autonomous Republics

The autonomous republics voted at the same time Each has a constitution, supreme soviet, presidium, council of ministers, planning commission, and supreme court like a union republic Each is represented in the presidium of the union republic by a deputy chairman and in the council of ministers by one member As has been said, there were (1948) sixteen of these autonomous republics, twelve in the R S F S R, two in Georgia, one in Azerbaijan, one in Uzbekistan Three in the R S F S R are multinational (Daghestan, Bashkiria, Buryat-Mongolia), the others represent definite national groups They vary in area and population all the way from Yakutia with 400,000 people in 1,500,000 square miles to Tataria with 3,000,000 people in 25,700 square miles Their ministers are responsible to those of the union republics Duties of the autonomous republics concern public order and the rights of citizens,

local economic enterprises, the land, mineral, and forest resources, housing, health, education, social maintenance, transport, roads, justice [24]

## Local Units

The term *local government* is not used in the U S S R, having given place to the more accurate designation *organs of state power* These are the territories, autonomous and other regions, districts, cities and their urban districts, and the townships or village groupings in the country All have soviets and executive committees or bureaus, any soviet or bureau may see its decisions overruled by the higher body They follow the general economic plan and provide whatever conveniences of public life are demanded by local opinion

The executive committees of the territorial and regional soviets have departments for land, finance, trade, public health, education, local industry, transport, etc, as many as the union republic approves All of these work under the government of the union republic and have some latitude for local problems

A territory or region includes districts and large cities which are independent units like the county boroughs in England The district has towns and townships (village or rural areas) In 1947 there were 1200 cities, 4000-odd districts, 71,000-odd townships, and about 1,100,000 deputies Cities with over 10,000 population may be marked off into urban districts Where the population of a village works on two or more collective farms, attempts have been made to organize town meetings of all the inhabitants, but these have little importance to date [25]

The last local elections took place December, 1947, and January, 1948, in territories, regions, national areas, districts, cities and townships The territory or region had a central electoral commission, under it were commissions for the cities, districts, and townships and at the bottom, commissions for the precincts or polls, as in national elections The nominating organizations nominate to the election commissions Some body—we may presume the presidium of the republic—reduces the list to the proper number, which is thirteen for the commissions in regions, territories, and cities and three for the poll commissions at the bottom The soviets are responsible for the voters' lists and the organization of precincts, the commissions check these, take nominations, print and give out the ballots, receive them on election night, and make up the result They see that rules are obeyed and take complaints The precinct or poll commissions act as in other elections

In these conditions, commissions abound We are told of one village area of 3000 population which has (1) a village commission over the (2) twenty-five precinct commissions for elections to the village soviet, (3) a district election commission over the (4) three commissions for elections to the

[24] *Bulletin*, January 22, 1947, pp 13-14, February 12, 1947, p 2, December 24, 1947, pp 18-19

[25] *Ibid*, May 28, 1947, p 9

district soviet There are thirty commissions and over a hundred persons on them [26]

Commonly there is one nomination to a seat, but wider choice is allowed not only in out-of-the-way places like Omsk but in Moscow and Leningrad The candidate in each case must get over 50 percent of the votes or there will be a run-off election, as also if fewer than 50 percent of the voters come to the polls In December, 1947, *Pravda* congratulated itself that the electors had sent the no-good candidates to the crows Eighty-four candidates failed of a majority in the R S F S R In four other places the elections were declared invalid as the rules had been broken, in fourteen places, no elections were held We may take it that to the present, candidates not on the slate have been permitted to run but have never been elected [27]

Citizens do not need to vote in their areas of residence but may do so wherever they are Their cards are stamped, which prevents them from voting more than once A deputy is subject to recall by a two-thirds majority of the voters or by a majority decision of the section or committee of which he is a member, this body justifying its action to the voters The process seems designed to secure unanimity of opinion, if that had been in any danger Groups of voters draw up instructions to their deputies, e g , for more services and goods The requests are listed and printed as a book of instructions for the soviet but are not mandatory The soviets choose executive committees and whatever other committees they need

In general, the local authorities administer health, education, housing, social welfare, recreation, telephones, and municipal enterprises—which include the customary services for water, sewage, gas, transport, also local industry, restaurants, retail trade, hotels, all of which are forbidden to private effort They must, of course, attend to law, order, and such civil rights as exist For most of their work they need the approval of higher authority of the Minister of Finance for their budgets, the Minister of Communal Economy for transport, water, electric power, garbage disposal, etc , Gosplan for industry, and the Minister of Home Affairs for their police They may undertake city planning but must apply to the commission on architectural affairs, created in 1943, to supervise the plans of cities and towns and of

[26] *Ibid* , November 19, 1947, p 9 In 1947, 100,000 canvassers from 700 campaign headquarters exhorted the people to vote the right way Among them were the students and staff of Moscow University, who gave over a thousand talks *Ibid* , November 19, 1947, p 33

[27] *Ibid* , April 30, 1947, pp 16-17, January 14, 1948, pp 22-23 New York *Times*, December 28, 1947

W L White, *Report on the Russians* (New York, 1945), p 219, describes a local election in Omsk There were five candidates for the chairmanship of the soviet in a direct election Two party members were running, one was on the slate, the other not Each candidate had a trade union behind him In the sequel, the candidate with party backing had a 28 percent majority over all others put together

important individual buildings The work is done through trusts operating under the Ministry of Construction and is not a local affair

Each unit makes an estimate of its budget for next year and submits it to the next higher authority, which may suggest changes and add its own requirements The village or town budget goes to the district, those of districts and cities to the region or territory and finally to the union republic, which consolidates plans and estimates and sends them to the Presidium of the Supreme Soviet of the union The state planning commission has the final say, perhaps after consulting the ministers Permission goes down the ladder in reverse to the above order and in company with assignments of tax quotas and of percentages allowed each soviet and of statistics on the grants for certain purposes

Cities like Moscow and Leningrad have more than a thousand deputies on their soviets, towns of 10,000 to 20,000 have a minimum of thirty-five Rural district soviets have 100–250, and a village of a thousand may have nine members on its council The rule of large councils persists from top to bottom, in theory it spreads experience and no doubt does so to some extent in practice But it prevents the great majority of deputies from doing anything more than voting as they are told

At the first meeting after election the soviet chooses an executive committee a chairman, two or three vice-chairmen, a secretary and substitutes for him if the committee is large The soviet meets once a month in a city, once in two months in the country It has committees for special purposes and sections or commissions to supervise the departments These commissions are large bodies and are supposed to watch the work of the departments and report on possible improvements Many deputies are employed by the soviet itself, e g , teachers may be elected and serve on the commission for education The practice does no harm, the tendency of teachers to seek higher salaries will be sternly checked by the numerous higher authorities who sanction the budget A commission inspects, advises, complains, but takes no executive action and spends no money The best it can do is to promote efficiency

The commissions may have voluntary help Factories and other enterprises elect workers called activists to share in the work of the local administration without pay in their spare time They will do work of no great consequence and may get some experience as a step to candidacy for some office

### Regions

The work of a regional soviet is doubtless like that of Rostov, which is described for us The soviet has more than 150 deputies and meets four times a year Its executive committee is the chairman, five vice-chairmen, a secretary, and eight members, it meets three or four times a month, attended by interested deputies, local administrators, and heads of departments They discuss current activities like agriculture in spring, schools in summer They

receive reports from the executive committees of district and city soviets and keep these in order Each vice-chairman has a specialty like industry, agriculture, or planning and is an expert in his line, with a higher education There is a staff of consultants to help them all

The executive committee manages the departments and administrations, like finance, local industry, agriculture, education, health, municipal economy The department officials elaborate plans for their work and present them to the executive committee for approval The heads of the departments are approved by the regional soviet in full session The soviet has sections or standing committees on agriculture, industry, the budget, etc, to present ideas to the executive committee and see that the orders of committee and soviet are carried out

Even the village soviet does its best to follow the regular procedure We are told of one village area in Kazakstan, consisting of six collective farms under one soviet, i e, a township The soviet has four permanent commissions on which the deputies and over a hundred activists work The village improvement commission is the busiest of all and works especially on housing A village soviet may have petty industry to care for, it will appoint managers of shops, confirm their plans, obtain raw material, and provide training for their workers [28]

## Cities

We have accounts in some detail of the work of the city fathers of Moscow and Leningrad in 1948 The first session of the city soviet occurred a month after the election The deputies, certified by their electoral areas, placed their documents before the credentials committee, which shortly declared everything done in accord with the regulation The opening speech in Moscow was by the architect Shchusev and had little relation to the proceedings The first business was to elect an executive committee of twenty-three members with the indispensable chairman, deputy, and secretary, the second, to approve the appointment of thirty-four persons as heads of departments and sections of the executive committee, the third, to choose the personnel of twelve standing commissions for the budget, housing, fuel and power, gas supply, transport and communications, city planning, industry, trade, public dining places, health protection, schools, culture One hundred and thirty-six members were assigned to these commissions, experts in the topics being favored In Leningrad, 201 deputies—139 men and 62 women—were chosen to the parallel twelve commissions, 120 were party, 73 nonparty, which leaves eight unaccounted for and possibly incapacitated The duty of the commissions was to study their subjects and prepare reports for consideration by the soviet's executive committee, but not to attempt executive action

[28] *Bulletin*, December 10, 1947, pp 5-9

The head of the health commission in Leningrad, Deputy Z Lebedeva, took her duties seriously She sent twenty-three groups of deputies to inspect the medical institutions and the organization of the health service and had their reports before the meeting of the soviet to discuss the report of the city department of health could take place She was well informed, and at the meeting on health made criticisms and suggestions Over a six-months period the commissions of Leningrad prepared reports on twenty questions Hundreds of deputies unassigned to commissions joined with 250 volunteer activists to prepare questions for discussion on such matters as the gas supply, the advisability of uniting dispensaries with polyclinics, and the improvement of the collective farm markets

The deputies have offices in the central electoral area for conferences with constituents Here they talk with the voters, report on their work, and get suggestions which they may pass to a commission If the commission approves, it will recommend the proposals to the executive committee of the soviet One deputy, we are told, meets his electors every two weeks for this purpose When the Leningrad city soviet was discussing the budget, a deputy called in voters, informed them of the details, and noted their remarks for possible action—with what result we are not informed

The chief business of the city soviet is the budget The 1948 budget of Moscow was nearly 3,000,000,000 rubles, of which 1,774,000,000 went to social and cultural services The education account, for 618,000 children, was 540 millions a year Nearly 9000 million rubles were being invested in the development of the economy of the capital Of this sum, 6600 millions would go to improvement of the living conditions of the population of Moscow

The sessions of the soviet dealt with the budget, housing, the municipal economy, public health, and the improvement of the city by the planting of trees, shrubs, and grass We are told that 180,000 trees were set out in Moscow in 1948 Housing had much attention, 540,000,000 rubles were to go to new housing, 468,000,000 to repair of existing housing During the year, the city had 525 new apartment houses with an area of 4,467,060 square feet or one square foot per head of the population, which may not have relieved the shortage to any appreciable degree

The new apartments helped to double the water account and increase that for gas and inspired fresh expenditure on central heating Much money went to subway cars, streetcars, widening and repair of streets and roads, erection and upkeep of public health institutions like laundries One billion rubles went to public health The budget was well discussed, we are assured, many deputies made proposals and saw them adopted The chairman of the budget commission of course had his part in this business The budget commission of Leningrad, preparing for the budget session, examined the claims of forty organizations for money After this work, it proposed and secured changes in

the official budget One voter secured improved housing at a particular factory in this way [29]

*City Elections* The elections for the Moscow and Leningrad soviets toward the end of 1947 are described for us at length The regulations for them were issued by the presidium of the supreme soviet of the R S F S R, they cover the compiling of voters' lists, the formation of electoral areas and precincts, the setting up of election commissions, the procedure for nominating candidates, conducting the polls, and counting the ballots

The first step is to elect the commissioners to be in charge In October, 1947, general meetings were held in factories, cooperatives, several sorts of societies, units of the services, Communist party organizations and even the opera and ballet theater The list is imposing, but we are told that each meeting nominated one candidate to a total of thirteen in Leningrad and perhaps slightly more in Moscow As the factories, cooperatives, societies, etc, of Leningrad would number some hundreds, we must assume a judicious selection among the nominees Who did it, we are not told but may guess the presidium of the R S F S R At any rate, this body certified the commissioners and let them organize themselves under chairman, vice-chairman, and secretary and start work

The existing soviets had formed 1027 election areas in Leningrad and 1392 in Moscow, on the basis of one area per 3000 inhabitants and one deputy per area, and had compiled the voters' lists The commissioners merely checked the areas and compilation The formation of precincts was the work of the urban district soviets, and this also was subject to checking All persons of eighteen and over are entitled to vote, as in national elections

The organizations and societies of "working people" also nominated and elected the members of twenty-five urban district election commissions in Moscow and twenty-one in Leningrad The twenty-one commissions in Leningrad included 261 members—149 men and 112 women Of the total, 142 were party members, 119 sympathizers A sampling of membership showed seventy-seven industrial workers, thirty-four engineers and technicians,

[29] *Ibid*, December 8, 22, 1948, pp 742-744, 770-772

There is a similar report from the city of Taganrog in the Black Sea area The soviet in 1947 had 370 members, of whom 177 were workmen, 132 public employees, 36 engineers and technical workers, 14 students, 11 housewives without other employment Eighty-five of the lot were women The soviet meets monthly, at the first session it chose by open vote a chairman and a secretary for two years The chairman, who heads the executive committee, appointed the other members of it, preferring experts, and submitted the list for approval, after which they became heads of departments and commissions These are listed as municipal economy, trade, local industry, finance, health, social security, education, general administration, and the local planning commission The soviet has nine sections or commissions to work with the eight departments and the planning commission The commission on education has a large proportion of teachers, that on finance has accountants *Ibid*, April 30, 1947, pp 16-17

thirteen physicians, fifteen teachers The next step was to set up precinct commissions to take charge of the polling stations 1314 commissions in Leningrad, 1563 in Moscow, nominated and elected by organizations and societies Altogether, 12,492 persons were working on the precinct election commissions of Leningrad, more in Moscow

Thirty-five days before the election the voting lists were posted for public inspection Complaints went to the executive committees of the urban district soviets, to be considered within three days If they were justified, the necessary changes were made in the lists Candidates for deputyships to the city soviet were nominated in each area by the organizations and societies The ideal was for one nomination to each deputyship, but it seems that a few independents were permitted places on the ballots As before, we may assume careful management back of the stage At any rate there was the party slate and a microscopic opposition

Campaigns were conducted by the press, the radio, and public meetings The precinct election commissions advertised the elections for fifteen days before the event and reiterated the day and place to vote by radio, press, leaflets, posters Campaigners (instructed by the party) talked to the voters and told about the lives and activities of the candidates These worthies addressed meetings, met the voters, asked and obtained suggestions for improvement in the conduct of the city's business Persons who on a close view found the candidates objectionable and did not care to say so at a meeting might submit a written statement to that effect to the election commission, which would use its own judgment

Elections were held on a non-working day (Sunday), from 6 A M to midnight, for the city soviet and the urban district soviets at the same time Every station has booths in which the voter may mark his ballot by crossing out the names except one, and when he is in the booth, no one else is allowed to enter He comes out in due time and places his ballot through a slit in a box with a lock If he is physically unable to mark the ballot, he may invite any other voter into the booth to help him The precinct election commission is responsible for order

At midnight the chairman of the precinct election commission closes the poll The commission opens the boxes and proceeds to the count The process is witnessed by scrutineers from organizations and societies and representatives of the press, some of whom will be party men The chairman announces the vote ballot by ballot and voids irregular ballots, including those with the names of more than one candidate remaining If validity is in doubt, the commission take a vote on the ballot themselves and file an affidavit recording their action

The precinct commission now makes a report of the process It states the total number on the voters' list, the number who received ballots, the number who voted, the number spoiled and voided, the number who voted for each

candidate, it adds the statements and complaints to the commission and the action taken on them if any These "minutes" go to the area election commissions, which tally the total vote and record the results of the polling Then the chairman of the commission announces the return To be elected, a candidate must receive an absolute majority of votes cast, as was the case in these instances

The press published the results two days afterward, December 23, 1947 It declared that 99 99 percent of all registered voters had gone to the polls in Moscow In the 1392 electoral areas of the city, the party slate got 99 36 percent of all ballots cast, only 117 were declared invalid In Leningrad 99 93 percent voted and the slate of party and sympathizers had 99 17 percent of the votes Spoiled and invalid ballots and the opposition together had 83 percent of the votes The outside world would like to know more of this tiny minority but must remain in ignorance One assumes that the independent candidates were not approved by the party but not considered so objectionable as to be forbidden the ticket

The new Moscow soviet included 727 "workers," 400 of whom came from the bench, 648 office employees and professional people The distribution left the factory personnel slightly in the majority Of the total, 812 were party, 580 nonparty reliables Women numbered 503 Among the deputies were 26 academicians, 38 professors, 13 architects, 54 teachers, 41 physicians, 28 workers in the arts, 8 writers and poets, 178 leading executives of all-union and republic state institutions, 176 leading members of public organizations, 133 industrial executives Among them were 1323 Russians, 26 Ukrainians, 9 Byelorussians, 10 Armenians, 19 Jews Most of them were new to the soviet 999 or 72 percent We infer (1) that people do not care for more than one term or (2) that the party deliberately arranged a rotation

Of the Leningrad deputies, 668 were men, 359 women The party had 634 members, the non party group 393 Of the list, 362 were industrial workers, 70 heads of educational and scientific institutions, 43 engineers, designers, and architects, 36 physicians, 40 teachers, 10 judges and assessors, 14 are workers, 3 housewives with no other occupation Twelve nationalities were represented, including 940 Russians, 24 Ukrainians, 10 Byelorussians, 4 Georgians, 5 Armenians, 28 Jews, 3 Poles Such are the beneficiaries of the experience in administration which the party wishes to bestow on politically trustworthy people In Leningrad the white-collar group predominated and included members of the learned professions to a surprising total, who furnish an example to their western colleagues It would seem that Leningrad is a stronghold of the new Soviet middle class [80]

*Urban Districts* The large cities have urban districts, like the Kirov district in Moscow, which contains the terminus of the line from Donbas and has many factories and railway installations The people elect a soviet of 186

[80] *Ibid*, November 3, 17, 1948, pp 679-680, 713-715

deputies, all distinguished in production or public life, who meet in plenary session every two months The soviet elects an executive committee, which does the work in the intervals with the help of eight commissions—on housing, municipal services, trade, schools, public health, public eating places, industry, the budget The commissions meet twice a month under chairmen who have experience in the subjects The industrial commission in 1946 had a scheme to utilize the by-products of textile mills and clothing factories, the municipal services commission had a plan to convert the installations in its charge to the use of gas as fuel, and the school commission had a plan for aid to children who had fallen behind in their studies in the confusion of war and evacuation

The soviet in plenary session settles the district budget and the plan of work for the year in accord with its part of the five-year plan In 1946 it hoped to put up apartments and use gas in them, to enlarge the subway and trolleybus service, to improve the streets by asphalt and treble the number of trees in them The executive committee has eleven members, a chairman, four vice-chairmen, and a secretary devote all their time to the work, the other five their spare time The agenda of one meeting was guardianship, allowances for the mothers of large families and unmarried mothers, requests for apartments, and preparation for the sale of soft drinks The committee directs the work of the economic enterprises the district industrial trust, the municipal trust, the housing administration, the road trust, the service of tree planting and landscaping It supervises departments of the administration, in some instances with the help of the commissions general planning, education, health, finance, social maintenance, maternity aid, culture, trade, garden allotments, and public citations and awards The members of soviet and committee are, no doubt, busy enough at useful work [81]

[81] *Ibid*, April 30, 1947, pp 16-17, May 14, 1947, pp 18-19

Chapter 42

# *Soviet Government and Economic Institutions*

## *NATIONAL EXECUTIVE*

THE official executive is the Council of Ministers, replacing under this name the Council of Commissars from 1946 The chairman, often called premier, is Joseph Stalin himself and there are eight vice-chairmen The council is a large body, it had fifty-eight members in February, 1947 The chairman and his vice-chairmen act as a steering committee and are members of the Politburo All ministers are party men, have deputies and staffs Changes may be made at any time, officially by the Presidium of the Supreme Soviet

The ministries fall into two groups—the all-union group over all-union enterprises like coal, iron and steel, transport, oil, heavy machine building, and the union-republic group, which supervises the work of corresponding ministers in the constituent republics These are the Ministers of Foreign Affairs, Internal Affairs, Defense, Justice, Finance, Trade, Food, Agriculture, etc [1]

Attached to the council are many committees and commissions One is Gosplan, the state planning commission, another is the board of the state bank, another is the committee of art The heads of these bodies regularly attend meetings of the council The chairman of the committee on education became a minister in 1946

The committees are for odd items like weights and measures, geological affairs, broadcasting, Stalin prizes Most of them have the organization of all-union ministries, but the committee for physical culture and sport is like a union-republic ministry and supervises committees of the same name attached to the council of commissars in each republic Other agencies have committee status without the name the council for the Orthodox Church, the council for sects, the Academy of Sciences, the news agency Tass, the boards over the northern sea route, civil aviation, forests, geodetics, cartography

Each ministry of the all-union type has an agent in each union republic who by the constitution of 1936 is a member of the local council of com-

[1] *USSR Information Bulletin*, March 31, 1948, p 183

missars and has a service under him The ministers of the union-republic type have their counterparts in the republics, also called ministers, who sit and vote in the local council of commissars The minister has a double responsibility—to the supreme soviet of the republic which appoints him and to the head minister in Moscow The head in Moscow prepares and sends plans for his sphere of activity, and he works them out in company with the local soviet and council If the business is manufacturing, the head office may operate some plants itself but usually leaves this responsibility to the local minister, with power to cater to local needs

Some of these ministries are home affairs, armed forces, higher education, state security, state control, public health, films, light industry, forest industry, meat and dairy industry, food, building materials, fisheries (two ministers for two regions), state farms, textiles, trade, finance, justice

## *GOSPLAN AND THE POSTWAR PLAN*

The state planning commission (Gosplan) was created in 1921 to make a unified plan for the Soviet economy It had a semi-holiday during the NEP and has been hard at work ever since, on the three five-year plans, 1928-1940, and now on the fourth, 1946-1950, and it is projecting other plans far into the future All the plans concentrate on heavy industry and leave a low priority to the consumer The model of heavy industry is obviously the United States The Council of Ministers lay down the main economic and political objectives of the plan and define its limits, e g , set the requirements for defense, and put Gosplan to work

The commission includes about a hundred persons and has many divisions One is the department of the general national economic plan in two sections, one for the current five-year plan and one for future plans There are departments for coordination and for particular branches of the economy, e g , finance, prices, labor, capital, construction, fuel The commission has three main functions to estimate the resources of the country in material, labor, and finance, to prepare plans for their use within the indicated scope and to support noneconomic activities like education, and to check the execution of the plans and punish defaulters

It relies on planning sections of ministries and other government agencies and on commissions in republics, territories, regions, towns, attached to the local executives and attentive to the needs of local industry It has its own inspectors and agents in localities and enterprises to furnish guidance to commissions and managers and to prepare estimates Individual plants often have their own planning sections, under direction of the Gosplan

At its request, the ministries and planning commissions of the republics inform the enterprises and local authorities of the wishes of the central government and set a date for draft plans to be submitted Industries, institutions, collective farms, state farms set about their plans under joint endeavor of

management, workers, and engineering personnel A typical draft plan has many sections the program for the suggested output, the schedules of the work of the various departments, the requirements of equipment, raw material, fuel, electric power It may mention new types of output and must describe the organization of labor and provide a financial section, estimating income, expenditures, and disposal of the output The drafts are discussed at meetings and conferences and revised when all have been heard workmen, office staff, technicians They go to local and central ministries under which the particular enterprises work The bureau of a republic will have its observations and will draft a plan for the local economy A central ministry will unify the plans that come to it and report to Gosplan

This body has the draft plans from enterprises and institutions from ministries and republics, and it sets to work to compile a plan for the country as a whole, paying particular attention to correlation in the development of the many branches of the economy It estimates the proportion between demand and supply for the various sectors of the economy and for the country as a whole It may refer questions to the central and local academies of science and research institutes, and to experts anywhere, and it relies on the Central Statistical Administration, which operates under the Council of Ministers It completes its plan and presents it to the Council of Ministers This body studies it, may make alterations, arranges for the execution, and submits the finished product to the Supreme Soviet, which of course accepts it The new five-year plan is no prognostication or estimate as in capitalist countries but a state decision, binding on all persons and organizations with the force of law Gosplan watches the execution of the plan, recommends changes in the light of developments, and prepares for the next five-year plan The chairman in 1949 was Maxim Z Saburov, replacing Nikolai A Voznesensky

Gosplan manages the money to suit changing conditions In the inflation of 1946-1947, it ordered wage and norm adjustments, and at the end of 1947 it revaluated the currency and gave up rationing Savings accounts up to 3000 rubles remained intact, those from 3000 to 10,000 were reduced at the rate of two new rubles for three old State bank deposits by economic enterprises, cooperatives, collective farms were revalued at the rate of four new rubles for five old ones All state loans except one of 1947 were consolidated into a single new one at the rate of one ruble in new bonds for three old ones This was done without notice to the holders, who simply took the loss Since that time, Gosplan has ordered three price cuts in large ranges of commodities and takes pride in reducing the cost of living The process is similar to the economic adjustment of western countries and goes by order instead of by gravity to reach the same end [2]

Russian economy suffered a severe shock during the war The Germans

[2] *Ibid*, January 28, 1948, pp 47-48, February 11, 1949, pp 72-74 Persons who kept their money out of the banks lost heavily, as cash was exchanged at the rate of one ruble of the

occupied territory inhabited by 88,000,000 people, nearly half the prewar population They overran the Krivoi Rog area, important for its iron, and the Don-Donets basin, source of half the coal of the union, most of the steel mills, and 40 percent of the land sown to crops Some equipment was withdrawn in time, much could not be The government promoted the movement of industry and population to the east and built or expanded centers of industry in the Urals, Siberia, and central Asia, and with help from the United States, Great Britain, and Canada was able to survive In 1945 industrial production was only 8 percent less than the 1940 figure but was chiefly for war goods and left the consumer stranded Crop output fell by half, as did the number of animals Cattle were down 16 percent, sheep and goats 25 percent, hogs 63 percent, horses 50 percent

The recovered territories presented a great problem Six million buildings in 1710 cities and 70,000 villages had been destroyed or damaged and had left 25,000,000 people homeless Thirty thousand industrial enterprises employing 4,000,000 workers had been seriously damaged, 65,000 kilometers of railway track, 13,000 bridges, and 4100 railway stations had been wrecked Freight cars to the number of 425,000 and 15,800 locomotives had been lost Agriculture had suffered badly in the overrunning of 98,000 collectives, 1876 state farms, and 2890 machine tractor stations Mines to the number of 1135 employing 337,000 workers and producing 100,000,000 tons of coal a year had been put out of commission

The fourth five-year plan hoped to repair the war damage to the country and provide for expansion beyond the prewar figures The total industrial production of 1950 would be 205,000,000,000 rubles, 48 percent over the figure of 1940 (138,500,000,000) Of this, heavy industry would have two-thirds and would be developed especially in the Urals and the east Consumer goods would rise by 120 percent over the figure of 1940 Productivity of industrial labor would be 36 percent above the base amount Basic capital was to be increased to 8 percent above 1940 New and rebuilt state enterprises would number 5900, electric power generating capacity was to be doubled

Pig iron was to rise from 15 million metric tons in 1940 to 19 5 in 1950, steel from 18 3 million to 25 4, coal from 166 million to 250, oil from 31 million to 35 4 Tractors would rise from 31,100 to 112,000, automotive vehicles from 147,000 to 500,000, and 7000 miles of motor roads were to be built There would be 104 rolling mills, 315 furnaces, 9000 miles of rebuilt railway track, 4338 miles of new, 1800 bridges repaired, 7585 locomotives, 472,000 freight cars, 1,300,000 machine tools, and 72 4 million square meters of living space Cotton cloth would rise from 4030 million meters in 1940 to 4686 in 1950, woolen cloth from 124 4 million meters to 159 4, shoes from 230 million pairs to 240 millions, retail trade would be up 28 percent The

new currency for ten of the old Wages, salaries, other income remained on the same numerical level in the new currency

number of workers and employees, 30 4 millions in 1940, would be 33 5 millions in 1950 In 1940 the average pay of the worker was said to be 338 rubles a month, it would be 500 rubles in 1950 [3]

All this is a modest program for industry, and so was the plan for crops The rise in grain by millions of metric tons would be from 119 in 1940 to 127 in 1950, in cotton from 2 7 to 3 1, in sugar beets from 20 9 to 26 Cattle in millions of animals would be increased from 56 to 65 3, sheep and goats from 93 to 121 5, hogs from 28 to 31 2, horses, 20 5 in 1940 and down to 10 5 in 1945, to 15 3 The drought of 1946 interfered with the program and led to a fall in the number of animals, which required a revision of estimates [4]

The years 1946 and 1947 were disappointing, but 1948 was much better By our reports, the gross output of industry for 1948 was 27 percent over the volume of 1947 and surpassed that of 1940 by 18 percent The program for the first three years of the plan with respect to the gross output of all industry was fulfilled 103 percent In the first three postwar years 4000 industrial enterprises were built or restored to operation The number of office and factory workers increased 2,000,000, 10 percent over the 1940 figure Housing rose by 51,000,000 square meters, a quarter of a square meter or rather more than a quarter of a square yard per person, which did not relieve congestion much

The gross crop of cereals in the whole of the U S S R was slightly short of the 1940 figure for a smaller area (which did not include the Baltic states, Moldavia, East Prussia) The average yield per hectare is reported vaguely to be better but is probably not appreciably above the poor prewar rates The increase of yield above 1947 is due to extension of the sown area by 34,000,000 acres, the greatest annual increase known in the country The area sown to grain crops in 1948 was 13,800,000 hectares Cattle and other animals showed various increases over 1947 but were still in short supply In 1948 nearly 200,000 hectares were planted to forest shelter belts, 270,000 hectares prepared for the 1949 planting of trees, and nearly 2,000,000,000 million seedlings grown in forest nurseries On the steppe areas, 2800 ponds and reservoirs were constructed to save water

After the abolition of rationing, retail trade showed an increase Bread sales were up 56 percent, sugar 100 percent, confectionery 45 percent, cotton 56 percent, silks 29 percent, footwear 45 percent The state and the cooperatives opened 35,000 more shops, stands, and booths Prices at the

[3] Steel output in Great Britain and western Europe in 1949 is at the rate of 30,000,000 tons, half in Great Britain In the U S it is 92,000,000 tons Coal output in Great Britain with older and poorer seams and many fewer sources is about 210,000,000 tons There were 41,000,000 motor vehicles registered in the U S in 1949 In industrial efficiency, Russia is still behind the west

[4] See Harry Schwartz, *Russia's Postwar Economy* (Syracuse, 1947), for the statistics

cooperative markets fell as much as a third, and on the collective farm markets to less than a quarter in two years Real wages, we are told, doubled by reason of this fall of prices, and 1948 was a good year for the Soviet economy [5]

## *CIVIL SERVICE*

The Soviet Union needs an extensive civil service, since nearly everyone works for the state In 1935 it created a central commission on the civil service under the Commissariat of Finance (now Ministry) In 1941 the commission came directly under the Council of Commissars of the union (now Ministers)

The commission approves the personnel of the headquarters of ministries and other central agencies It limits the number of employees in the field, leaving distribution to the ministers and the agency chiefs Salaries go by experience, qualifications, and type of work done, the principles being set forth by law

Each ministry conducts its own examinations and has its own recruitment, under the general stipulation of absence of bias on the ground of race, religion, or sex It gets specialists from its own schools or from the Ministry of Education Candidates for the schools take examinations but are excused on the ground of good records in the state schools A graduate enters service at the level for beginning specialists, takes the job offered, and serves three years on probation, if he refuses or quits, he is subject to prosecution Skilled workers come from the schools of the ministry that wants them or from the Ministry of Labor reserves, which ministry trains great masses of young people out of the seven-year school, or from the *technicums* Unskilled labor comes from the elementary schools

Managers are trained in schools conducted by the ministries The candidates are young workers noted for their ability to get things done and for their attitude to the party Many have had ten to fifteen years' working experience, take courses for three to five years, including politics and economics, and are ready to manage an industry at age thirty, which is a contrast to the practice of western countries

## *ADMINISTRATION AND FINANCE OF INDUSTRY*

There are three forms of state industry—union, republic, and local The union industry is most important and consists of key enterprises catering to the needs of the union as a whole A republic's industry is smaller and chiefly for the consumers within its boundaries Local industry gets its fuel and raw material on the spot and sells to the people about Union industry comes under union ministers, republic industry under local ministers, local industry under departments of soviets

[5] *Bulletin*, January 28, 1949, pp 37-38, February 11, 1949, pp 67-72

A Minister of Industry has broad administrative powers, he issues orders and instructions and verifies their fulfillment He appoints the heads of departments, enterprises and trusts He has a collegium or board consisting of himself in the chair, his deputy ministers, and leading executives, all to be approved by the Council of Ministers The board considers major problems of production and the consequent policies to be adopted and issues instructions accordingly To check performance, ministers regularly convene conferences of leading workers and executives, heads of enterprises, outstanding workers and engineers, and trade-union officials and hear all points of view Each ministry has a technical council to improve technique and a control and inspection agency to put recommendations into practice

Local industry embraces enterprises of many sorts, working chiefly for the consumer, e g , furniture, hardware, knit goods, toys A republic minister of local industry may operate some enterprises directly and offer advice to regions, districts, and cities which want their own Regional soviets have departments of local industry, district soviets have boards, village soviets have committees

Finance is not such a powerful factor in determining what is to be done about industry as in western countries The government owns land, forests, and minerals and simply takes what it wants of its own materials, having no landlords or other holders to pay off The costs are of procuring, processing, labor, and transport From 50 to 65 percent of the annual national budget has been for working capital, reconstruction, and new building

The management of economic affairs is chiefly by trusts and government corporations The trust is a regional organization of some manufacture or public service, the corporation deals with commerce, finance, and transport The key person in each case is the manager, a person who looms large on the horizon of Soviet economy Before 1937, he consulted the trade union and the party organ constantly on plant affairs, but since that year this "triangle" has vanished, leaving the manager with sole responsibility If the trade union or the organ cannot persuade him to see as it does, it may take the case to high government authority, but in the interval the manager has his way He tends to concentrate on production, general policy and disposal of the product being the business of the ministry

He studies efficiency of personnel and equipment and hopes to increase and improve his product He may incur severe penalties, up to eight years in confinement for failure in standards of quality or two years for carelessness in organization but probably rarely suffers this drastic punishment and is merely demoted or removed for failure He has compensation if he succeeds, the best house and grounds, the best food, a car and a chauffeur, the best vacation resorts, and hope of promotion into the administration and perhaps even into the council of ministers

A government corporation has a charter which defines its powers and

includes a list of its properties It has an official seal and name and may be dissolved and liquidated if not needed

Accounting is a somewhat artificial operation in the absence of a free market to test costs, profits, and losses The Ministry of Finance prescribes a uniform method and issues manuals for bookkeepers Each enterprise reports monthly and annually to the Ministry of Finance and the nearest branch of the state bank The ministry sets costs on the one hand and the sales prices on the other, after consultation with the various ministries and agencies concerned, and allows a profit If the manager can improve this, he deserves a bonus and promotion, if he fails to make ends meet, he will stand an inquiry which may exonerate him or cost him his job Consumer products are subject to a market check, if they sell easily, they are a success and the money comes in readily If they remain on shelves, the income falls and eventually draws the attention of the finance officials The consumers may complain through the press, and the manager must either change his technique or explain that he cannot get better material with which to work

The enterprise gets its initial fixed and working capital from the government, which remains a charge on the government's budget, not that of the factory It gets short-term credits from the state bank to buy raw materials and daily necessaries like fuel, and pays interest on them This money and what the enterprise makes itself are the financial resources It keeps a current account in the state bank and gets a little interest on it The earnings are the difference between the cost of materials, wages, salaries, and upkeep, set by government, and revenue from sales, also set by government They are determined by the general plan, to a minor extent by the ingenuity of the manager On sale of the product, the government takes a turnover tax What is left is called profit but pays a profit tax too The remainder, little enough in most cases, is for working capital and incentives to labor There are practically no advertisement or sales costs, there is much outlay for the benefit of the workers Presumably there is no duplication of plant and staff in the same area, as in a competitive country The factors of cost and sales in Russia on the one hand and in capitalist states on the other are so different as to frustrate any attempt to compare efficiency on this basis [6]

## *GOVERNMENT FINANCE AND BANKS*

The budgets of the Soviet Union do not differ in principle from those of western countries The chief income is from taxes on turnover and on the profits of state enterprises and cooperatives, the total of which was 66 5 percent of estimated revenue in 1949 The turnover or sales tax is a high percentage of the cost of an article every time it changes hands, when it goes from

[6] *Ibid*, February 11, 1948, pp 82-83 If there is a deficit for which the management is not responsible, the industrial bank will make it up and obtain reimbursement from the treasury V Gsovski, *Soviet Civil Law* (Ann Arbor, 1948), pp 96-101

one enterprise to another as well as when it goes to the consumer It amounted to as much as 80 percent of the price paid by the consumer for meats and soap in the 1930's, and, levied on necessaries as well as luxuries, it falls heavily on the low-income group and keeps the cost of living high

For the year 1949 the rest of the revenue came from an income tax on all earners, collected at the source, and special taxes on collective and individual farmers, on married citizens with small families and unmarried ones, and on the machine tractor stations There is also a revenue from forestry and another from public gambling Betting on horse races is a public enterprise, there is a state-operated tote which brings money to the government, bookmakers being prohibited

The difficulties of reconstruction in the postwar period required four state loans—in 1946, 1947, 1948, 1949, each for 20,000,000,000 rubles and all highly successful by our account Subscribers may pay in cash or in ten monthly installments, the bonds are in denominations of 25, 50, 100, 200, and 500 rubles, each bearing a number The interest is at 4 percent but is paid in lottery prizes after drawings of the lucky numbers [7] One-third of the bonds win prizes, the others return merely the principal This, we are assured, is what Russians like, but they have no choice in the matter Receipts from the loans are reckoned as income in the budget and are not put down to capital account

On the side of expenditure, the largest item is for the national economy, as is expected in a socialist state Welfare takes a good deal under the headings of health, culture, social maintenance (help to persons in need), and defense has considerable allotments

The two budgets of 1948 and 1949 reflect the expansion of the Soviet economy In 1948 income was 429,149,697,000 rubles, expenditure 388,040,597,000 rubles, to leave a margin of over 41,000,000,000 The national economy took 40 percent of the outgo and included 61,000,000,000 for capital construction The social and cultural account took 116,500,000,000, half for education, health had 20,900,000,000 Social maintenance, chiefly pensions to invalids of war and labor and grants to mothers of large families and unmarried mothers, took 22,600,000,000 rubles [8]

The budget presented to the Supreme Soviet March 10, 1949, showed figures generally larger, and estimated revenue for the year at 445,208,000,000 rubles, expenditure at 415,335,000,000, to leave a margin of nearly 30,000,000,000 Taxes were expected to be 36,500,000,000, 8 2 percent of the revenue, but this seems to mean the general income tax Turnover and profits gave 66 5 percent, as has been said, special taxes, forestry and miscellaneous charges

[7] *Bulletin*, May 27, 1949, p 309 John Lawrence, *Life in Russia* (London, 1947), p 107

[8] *Bulletin*, May 12, 1948, pp 284-285 Somewhat different figures for 1948 are given in *Bulletin*, April 8, 1949, p 218 Income and outgo for 1948 are put at 408,400,000,000 and 368,400,000,000 respectively

account for the rest On the side of expense, the economy took 152,525,000,000, the total investment in the economy through the budget and allotments of profit in the enterprises was 189,900,000,000 As against this, subsidies to industry and transport were to be reduced in 1949 and abolished in 1950

Social and cultural departments got 119,214,000,000, education about half of this or 60,800,000,000 Health received 21,600,000,000, social insurance 16,600,000,000 The mothers of large families and unmarried mothers got 3,400,000,000 out of the social maintenance fund of 21,400,000,000 Defense took 79,000,000,000 or 19 percent of the budget, which at eight cents to the ruble is about $6,400,000,000 The item on defense in the current budget of the United States is about $14,000,000,000, one-third of the total, that of Great Britain is £750,000,000 out of about four times that sum No exact comparison is possible, however, as many requirements might be put into different financial categories [9]

The Minister of Finance controls the banks and uses them for general control and for distribution of money in accord with the plan The state bank is the largest, having over 4000 offices and 100,000 employees in 1946 It clears the checks and bills of the economic organizations, grants loans, and regulates the circulation of money in the country The economic organizations use no money in their dealings with each other and grant no credit, they send checks or bank orders and let the bank arrange the credit The bank makes loans to an enterprise for usually three months at a time, e g , to build up stocks, and sends inspectors to look into the soundness of the customer It charges interest on its loans It takes deposits and pays interest on them to economic organizations, trade unions, individuals, collective farms, etc

There are also industrial, trading, agricultural, and communal banks, and others for foreign trade, all with headquarters, regional offices, district branches The industrial bank grants loans to building enterprises for material and equipment and so controls expenditure for all construction in industry and transport The agricultural bank makes long-term loans to agricultural organizations for irrigation, power plants, the purchase of cattle, the planting of orchards or industrial crops and will finance a migration to the east The trade bank lends to trading and cooperative organizations for new shops, stores, warehouses The communal bank lends to municipalities for buses, streetcars, bathhouses, laundries, erection of apartments and houses It will also aid private individuals to build houses It checks the arrangement for land and demands a guarantee from the organization that employs the customer, and if all is clear, grants a loan up to ten years The foreign trade bank makes loans to importers to pay for shipments and credits to exporters

[9] *Ibid*, March 25, 1949, pp 173 and 200 Also budget text in *ibid*, April 8, 1949, p 218 Agriculture was to get 32,700,000,000 rubles in 1949 as against 20,500,000,000 in 1948

until they are paid All the banks report to government, follow its actions and may suggest changes in policies and bills [10]

Personal savings are encouraged in Russia The Ministry of Finance has a department which operates about 32,000 savings banks through the country Most of the accounts are for an unspecified period, to the credit of an individual or "to bearer," and draw 3 percent annual interest Some accounts are for a minimum of six months and draw 5 percent, some draw income not in interest but in lottery prizes like the state loans There are also checking accounts without interest Savings banks pay household bills on request, issue letters of credit, receive subscriptions to state loans, pay the lottery winnings, pay government pensions and allowances to families and to unmarried mothers, social security benefits, and grants to the sick and disabled, i e, do the government's financial business with the citizen [11]

## *FOREIGN TRADE*

The government keeps a tight monopoly of transactions with outsiders It has a Minister of Foreign Trade, and he has a department of planning and economics to work with Gosplan and divisions for export and import, transport, foreign exchange, and credit Trading organizations are formed abroad like Amtorg in the United States and Arcos in Great Britain to buy and sell under local laws They are not technically Soviet state property but are part of the general machinery and do business in accord with the plan The Minister of Foreign Trade may grant foreigners permission to establish agencies in Russia under strict control and supervises their operations in accord with the plan External trade is much less than in the time of the Czars

## *PRODUCERS' COOPERATIVES*

Socialist planners found difficulty with the operators of small shops and workers at repair and personal services They decided to allow the individual to continue his work, provided he relied entirely on his own labor and that of his family, the hiring of help being irrevocably condemned as exploitation Every town accordingly has tailors, cobblers, watch repairers, etc, like their colleagues in western countries But not much can be done without hired help, and most operators of this type have joined workers' or producers' cooperatives, which cover a wide range of services and include plumbers, electricians, luggage carriers, and fishermen in their ranks The government provides premises, equipment, raw materials, fuel—on credit if necessary It may buy the product or part of it or let the operator sell directly to the consumer under the rules of the association Plant, equipment, and funds belong to the

[10] *Ibid*, August 28, 1946

[11] *Ibid*, April 30, 1947, p 23

cooperative In the R S F S R in 1946 there were 11,000 industrial cooperatives with over 800,000 members, a unit having from a few score to several hundred cooperators

The basic institution is the general membership meeting, which elects a management board, a chairman, vice-chairman, and secretary by secret ballot, and hears reports regularly from them It admits and expels members, amends the constitution, makes plans for production, estimates norms of output and the corollary pay for it, decides on the size of the share in the enterprise and the use of profits if any Each member pays an entrance fee and contracts for a share, to a total which commonly runs to two months' earnings and for which he may pay on the installment plan The fee is 25 percent of the sum, the share the other 75 percent, the proceeds of both go to the capital of the cooperative The member may leave on a month's notice and get the share money back The cooperator has only one vote in the meeting, no matter what the size and number of his shares, and must work for the cooperative at a wage which it determines The local unions belong to unions of producers on a national scale headed by boards elected by the membership and satisfactory to the party The output of all cooperatives belonging to a given union is sold at the same price in all outlets government stores, consumers' cooperatives, or stalls belonging to the union

The cooperatives get credit from the Trade and Cooperative Bank on easy terms, e g , for ten years at 1 percent interest The first call on income is the basic wage, the others are taxes, capital needs, interest on loans, expenditures for construction, social insurance, education, and welfare Whatever remains is profit to be distributed as the general meeting directs, usually as a bonus in proportion to the output of individuals, but it is so little as hardly to be an inducement

Social insurance covers the members as well as workers in factories Each unit takes about 10 percent of the wage fund for the purpose and has help from the government It pays out for pensions, sickness and maternity benefits, etc From the welfare fund it makes allowances for vacations, twelve days a year at the minimum Some producers' cooperatives are wealthy corporations and have restaurants, nurseries, clubs, libraries, sports societies and grounds, sanatoriums, rest homes, and children's camps like the trade unions and pay most of the cost, some provide technical and adult education Possibly these advantages count for something as an incentive to the membership [12]

[12] *Ibid*, November 17, 1948, pp 715-717 The writer is chairman of the Leningrad metalworking industrial cooperative His unit had a loan of 3,350,000 rubles for ten years at 1 percent They proceeded to erect a building and buy equipment with the money They hoped to increase output by 40 percent to begin production of bicycle and outboard motors and to improve working conditions of the members One man who improved the design of a saw frame had a premium of 7000 rubles and was elected to the

## *TRADE UNIONS*

Trade unions existed in the last years of the czarist regime and were a familiar feature of factory life, although never as powerful as the unions of western countries For some time after the Communist Revolution there was a controversy about the functions of trade unions in a socialist society The older leaders like Tomsky, for many years head of the national organization of unions, considered the worker's interest to be higher wages and fewer hours whether the employer was the capitalist or the government But the party saw in this mere obstruction, the sixteenth party congress in 1930 declared the primary duty of the unions to be increase of production, from which would come considerable benefits to society at large and the worker as part of it The leadership experienced a purge, Tomsky and his like disappeared in favor of compliant persons, committed to produce more Accordingly the unions serve the government as agents for production and morale They serve the workers by managing the social insurance program and by providing facilities for rest, recreation, and education, and they have become large holders of property extending from simple local libraries to spacious summer mansions They cooperate closely with management in promoting the worker's health and efficiency and in settling disputes

Membership is open to all permanent workers and admission is on the recommendation of the membership committee, two-thirds being present, and on approval of the shop or factory committee Only those who have lost the status by decree of a court are ineligible for entrance A member may resign but, as we are assured, rarely does, he may be expelled but rarely is The fee is 1 percent of the wage, paid monthly to the treasurer and certified by a stamp in the trade-union book which the member carries

The organization of unions is not by craft but by industry or occupation, all employees of a particular industry belong to one union no matter what they do The size of Russia, however, requires a geographical division of some unions, e g , in the metal industry, which has three of them, one in the Urals for that area and Siberia, one for the Ukraine, one for the Moscow area In these conditions, unions are large and few, the 136 of them unite 85 percent of the factory and office workers of the country In the 1920's the unionist had right of employment before his nonunionist comrade, but this has had little meaning since the beginning of the five-year plans He has some more

board Another member was removed for neglecting the work of the cooperative in pursuit of his private interest

In 1947, 40 percent of the excess of income over expenditure went to working capital, 20 percent for bonuses to the best workers The rest was dividend for the members and came to eleven kopecks for each ruble earned As a hundred kopecks are one ruble, the dividend was 11 percent of the wage

*Ibid*, September 11, 1946, pp 18-20, has useful details A painters' artel is described in A R Williams, *The Russians* (New York, 1943), chap 12

practical priorities twice the sickness benefits, preference in the sanatoriums, and exclusive use of some union agencies like the mutual credit associations

The basic institution is the general membership meeting This elects a factory committee in an industrial enterprise and a local committee in an office, annually and by secret ballot The meeting may also elect standing committees for special purposes, and on provocation may recall the committee or any member If the factory has 100 employees, the meeting may elect shop committees for the individual shops Within the shop, groups up to twenty form production teams or sections, and each of these by show of hands elects a steward, a social insurance agent, and an inspector of conditions of work If the plant is very large, the membership meeting cannot be held and is replaced by a conference of delegates elected in the several departments of the plant [18]

Some unions are large enough to hold conferences of elected delegates in cities, districts, regions, and republics and to maintain committees of each, others have no need of elaborate organization In an individual trade union the highest authority is the trade-union convention, composed of delegates from the plants This elects a central committee for two years by secret ballot, to meet every three or four months At the first meeting the committee elects a presidium under the inevitable chairman and secretary This body guides the work of the factory and local committees directly or through the intermediate committees

Over all the unions is the All-Union Central Congress of Trade Unions, more than 2000 delegates who meet in theory every two years This congress by secret ballot elects the All-Union Central Council of Trade Unions, and the council elects a presidium, a chairman, and a secretariat and makes decisions binding on all trade unions The chairman is the most important person in the labor world and often announces important legislation to his public The council has many departments to supervise, e g , social insurance, wages, labor protection, workers' supply and housing, education and culture, finance, law, physical culture and sports, audit and control, organization and instruction, relations with foreign trade unions It has departments also for sanatoriums and rest homes and an executive administration for its extensive work It may be mentioned conveniently by its initials as A U C C T U

The A U C C T U has a publishing house and issues a daily paper, *Trud* (Labor), two magazines, the semimonthly *Guide for Factory Committees*

[18] A working example comes from a small electrochemical plant in Kiev with five shops The general meeting of workers elects five committees, for production, safety, labor protection, culture, rates, and grievances, a total of twenty-three men Each of the five shops has a trade-union organizer, an insurance delegate, a labor-protection inspector Twelve trade-union men lead circles for sports and study, two are volunteer librarians Conferences on production are held every three months, encourage the workers to put ideas forward and adopt some of them The best workers get 4000 rubles a month, ordinary ones 2000 *Bulletin*, March 25, 1949, pp 201-202

and the monthly *Trade Unions,* and the weekly *New Times* in Russian, French, English, and German for propaganda The activities of the unions require the services of no fewer than 8,000,000 officials, of whom only some tens of thousands are paid If there are from 500 to 2000 workers in a plant, the factory committee may keep a full-time paid agent, if from 2000 to 3000, two of them, if over 35,000, thirteen, which is the maximum But in practice, these numbers are often exceeded The officials are members of committees and presidia, of social insurance councils, of conciliation commissions, of inspection groups, or are group stewards, insurance agents, inspectors for safety and health

The unions have much to do to assist the program of the government The central committee of the trade unions confers with the economic heads of the state on the wage levels in the various industries The state makes the decision and sets forth scales of wages for each plant, e g , eight levels according to skill and industry for one machine-building plant in the Urals (Ordzhonikidze) The factory committee in each plant includes this wage scale in its general agreement with the management, merely to put into operation as there is no use trying for higher rates Neither union, management, nor local authority can change hours, wages, or insurance rates, they must appeal to high government authority to correct inequities and will find the party organization the best channel

The unions urge the worker to more and better effort and award medals to the best performers, often called Stakhanovites after Alexei Stakhanov, a Don mine worker who achieved a record output by improvement in methods in 1935[14] They work with the management to set production quotas where possible, using the output of the average worker as base, and to reward the efficient by bonuses, special vacations, priorities on good things like theater tickets The unions promote socialist competition of factory against factory for better records and consult management constantly on the raising of efficiency by labor-saving machinery and improved organization Since there is a job for everyone, they do not in theory object to saving of staff in these ways, but assist it heartily

The unions have much to do with the worker Commonly the factory committee makes an agreement with the management to cover many sorts of business of interest to both parties The central committee of the trade union drafts it in outline together with the minister of the industry and gets the approval of the All-Union Council of the Trade Unions and the Council of Ministers The factory committee submits it to shop, shift, and general meetings and gets suggestions, discusses these with the manager, completes the document, and registers it with the central committee of the union and the ministry

[14] Stakhanov became a mining engineer in the ministry of the coal industry of the eastern areas of the U S S R *Ibid*, September 8, 1948, p 535

One group of clauses will provide for the specified increase in production and in labor productivity, by improved organization and socialist competition Other sections deal with pay, promotions, training of personnel, labor discipline, and working and living conditions The plant will provide a safe and healthy environment for work and may furnish apartments for the workers (at a rent), garden plots, help in building cottages, technical instruction, clubs, theaters, sports grounds, kindergartens and camps for the children, and overnight sanatoriums and special diet for ailing workers who do not require hospitalization or time off work This complete program is not possible for many plants but items from it find acceptance in every agreement The trade union, having accepted it, gives advice and supervision to the expenditure and consults management constantly [15]

Large unions have sanatoriums and rest homes, some of which are on the Black Sea or in the Caucasus, and help to pay expenses of workers on vacation there They have palaces of culture, clubs, parks, gardens, libraries, facilities for athletics, and use most of their funds to promote health and education To the Russian worker the union represents Santa Claus

The unions also manage the social insurance program Old Russia had limited social insurance, for the benefit of 1,700,000 out of 11,400,000 workers and office employees Sick benefits were paid on the basis of 25 to 50 percent of the earnings, disability and old-age pensions did not exist Most of the costs were paid by the workers themselves

The new Russia has a complete scheme The budget of 1948 provided 15,500,000,000 rubles on this account, a considerable increase over the 11,593,000,000 of 1946 Social insurance of all employed persons is compulsory and is paid for by the state and the employing agency Each enterprise or institution pays 7 or 8 percent of wages and salaries into the social insurance fund and the government furnishes the rest The worker pays nothing directly but of course supports the fund through his taxes

For temporary disability caused by sickness or accident the worker draws from 50 to 100 percent of his normal earning, usually 75 percent If he is classed as invalid, he will get an invalid's pension If an employee stays home to care for sick members of the family, he also draws the benefit—subject, one presumes, to safeguards Old-age pensions come at sixty if a man has been a wage earner for twenty-five years, at fifty-five for a woman with twenty years of work behind her The recipient may draw the pension and continue to work at full rates of pay The requirements of service are reduced for persons in underground work or work injurious to health, and a man or woman incapacitated by reason of accidents or illness draws the invalid pen-

[15] *Ibid*, July 28, 1948, pp 446-448 The unions control housing construction, get credit for private homes if necessary In 1947 nearly 30,000,000 factory and office workers had garden plots, in 1948 about 6,000,000 workers had one or more animals, to help with the food program

sion regardless of his years of work If the management has been at fault, it may be compelled to make the pension up to the victim's average earnings [16]

The unions administer the scheme The central council of the trade union congress has a department for it, the factory and shop committees have social insurance councils or committees to spend the money The scheme pays pensions, sick and disability benefits, maternity benefits, funeral benefits, part of the cost of accommodation in the sanatoriums and health resorts and of dietetic nourishment in them, of children's camps and facilities for sports, and even contributes to the support of large families

The unions accordingly appear as the source of many benefactions At the end of 1947 they had 7000 palaces of culture (adult education centers) and clubs and 30,000 theater, art, and hobby groups in which over a million office and factory workers shared In 1948, 1,865,000 working people used the health resorts and rest homes The unions had 736 sanatoriums and rest homes, the latter of which accommodated 120,000 persons, and they hoped to open eighty more in the course of the year The overnight sanatoriums in the factories, paid for by the plants, catered to 105,000 persons in 1947 Summer homes and play centers, financed by the unions, entertained over 2,000,000 children in 1947, 2,650,000 in 1948

Yalta in the Crimea had summer homes, mansions and palaces of the rich in czarist days, all now are in use for the workers The Crimea in 1940 had 164 sanatoriums and rest homes where 250,000 persons spent vacations or received treatment each year In Yalta alone there were thirty-six such establishments These suffered during the war, but most of them are restored and in full use The sick worker has the privileges and the environment once reserved to the aristocrats and may restore self-esteem and health at the same time in some of the choice spots of Europe [17]

The unions have an eye to the disputes of the workers with the management Difficulties over the general agreement go to the central committee of the union and the ministry and from them if necessary to the All-Union Central Council and the ministry Every three months the union checks the execution of the agreement and reports to a meeting of the workers Strikes are not forbidden in the Soviet Union but simply do not occur The official explanation is the workers' understanding that a strike would be a

[16] *Ibid*, July 31, 1946, pp 17-18, summing up the pamphlet by A Gorbunov, *Social Insurance in the U S S R*

[17] The *Bulletin*, May 12, 1948, has a description of the facilities for health, recreation, and instruction of the Shale and Coal Miners' Union of the western districts of the U S S R The Union has five sanatoriums and ten rest homes in the Caucasus, the Crimea, and on the coast about Riga, and provides vacations to them cost-free (one presumes, with limits) It has 17 palaces of culture, 840 clubs, 60-odd parks and gardens, 300 libraries opened since 1945 with a million volumes It has a sports society with 40,000 active members, 6 stadiums, and more than 300 sports grounds It makes arrangements for garden allotments and will furnish credit for the purchase of animals and poultry

self-inflicted injury, the unofficial explanation is their perfect knowledge that nothing of the sort would be tolerated [18]

Minor troubles constantly occur between workers and management over payments of wages, dismissals, disciplinary censures, injuries ascribed to management, vacations They go to a conciliation committee in the factory (sometimes called wage rates arbitration committee), composed equally of representatives of union and management with the complainer in attendance, and bound to decide within three days Above these committees are district boards of representatives of both sides under an impartial chairman, and it is possible to take a case all the way to the All-Union Central Council of Trade Unions, which may override the local committees But, as we are assured, such appeals are rare, the manager and committee agree locally in the great majority of cases, and the worker has the best of it How far this preference contributes to efficiency about the plant is not disclosed

If the wage rates arbitration committee cannot decide, the factory committee may try the labor sessions of the people's court, on which one judge at least will be a trade unionist The tribunal usually decides for the worker too, as we are informed If the worker still fails, he may go to the higher courts Violations of the labor code go directly to these courts as falling under the criminal code, administrative action, e g , about housing, is likely to go there too

The unions give great attention to the problem of safety on the job The All-Union Central Council of Trade Unions has nine research institutes devoted to it, of which the largest is the Moscow Labor Protection Institute with laboratories in Moscow, Gorki, Kalinin, Saratov, Kuibyshev These study aeration, ventilation, machine guards, safety devices, working clothes, and the effects of gas, steam, and dust on the human frame They have made over 70,000 analyses of problems and 10,000 investigations of installations, trained 4000 inspectors, and issued 225 books, pamphlets, booklets, and over 100 leaflets on the subject—a fairly modest achievement In the last seventeen years, accidents on the job have been reduced by nearly 75 percent Carbonated salt water was used to prevent heat prostration as early as 1930, by our account The same source assures us that all factories and mills are distinguished for their cleanliness, good ventilation, light and air, high degree of mechanization and automatization of production processes, but visiting foreigners have expressed much lower opinions on these points The All-Union Council of Trade Unions has 2200 full-time inspectors and 737,000 volunteer unpaid members of the rank and file to help check labor protection [19]

[18] John Fischer, *Why They Behave Like Russians* (New York, 1947), p 174, notes a few strikes in 1945-1946 in defiance of union officials during the confusion of readjustment

[19] *Bulletin*, September 8, 1948, p 551 W L White, *Report on the Russians* (New York, 1945), p 43, notes lack of cleanliness

Payment of Soviet workers is if possible by piecework, abhorred by labor in western countries and the due of 75 percent of the labor force in Russia Each man or woman receives a quota of production for him or herself if this is feasible, and will get extra money for exceeding it If the piece is for a team of workers with varying specialties, the principle is the same, to surpass it brings more pay The results depend on the efforts of the entire team, but the earnings are not distributed equally They go to members according to the skill each has displayed and the time and nature of his work, for example, heavy labor draws 20 to 25 percent more than light The rates of payment are higher for production over and above the quotas and increase in proportion to the overfulfillment In the west, this would be called sweating If it is impossible to calculate the time and quotas for definite operations, the worker is paid reluctantly by the day or hour and gets bonuses depending on the monthly results of the work Engineers, experts, technicians are brought into the system on this basis, they get fixed salaries and if the production plan is overfulfilled have a bonus amounting to a percentage of regular earnings [20]

## *THE WORKER'S STANDARD OF LIFE*

A worker is required to carry a labor book with his record of employment and of permissions for change of jobs It is a serious crime to leave without permission, to be absent without it, and even to be late By our reports, the worker may at times and in places earn 4000-5000 rubles a month, but according to the plan he should average only 500 rubles in 1950 In 1948 good living accommodation in a factory apartment near Moscow meant one room (30 x 25 feet) to a family and a share with three other families in a kitchen, bath and hall, the price, 56 rubles a month Single houses in the areas for reconstruction are of pine logs packed with hemp, they have thatch on the roof and only two or three rooms The family income for man and wife in the Moscow instance was about 900 rubles Diet, although enough, was heavy with bread and soup After food and rent, little was left, each member might hope for clothing and underwear every two years, a pair of shoes, a shirt, and socks every year, an overcoat and pair of rubbers every five years All this makes a spare living [21]

[20] *Bulletin*, May 27, 1949, pp 305-306

The tenth trade union congress met April 19-27, 1949 There were 1343 delegates, of whom 517 were women and among whom 32 nationalities were represented The congress reported 1,200,000 social insurance agents and inspectors, wage rates committees with personnel over a million, and more than two million voluntary workers In 1948, trade unionists had entered two million production conferences and adopted four million proposals to improve production Two million workers had been in sanatoriums and rest homes, paying 30 percent of the cost Four million children had been in camp The main topic of the congress was increased production *Bulletin*, May 13, 1949, pp 276-279

[21] Food for three costs an engineer who earns 5000 rubles, 1250 rubles a month, rent

There are compensations social and job security, technical and other education and promotion, clubs, sports, theaters, recreations and hobbies, summer homes, and quotas in the Black Sea resorts The worker is featured as a hero in the press, in films, and on the stage although of late he yields place to the new Soviet middle class There is room for argument about the balance of advantages and disadvantages But the unsatisfied ambition of the average worker for many a year has been simply for one good hearty and varied meal

Every citizen has the right to buy or build a house of one or two stories and one to five rooms exclusive of kitchen, bath, and storerooms, which means the common six-room house of the Western world He cannot own the ground and used to rent it on long leases, now takes a lease with no time limit and pays a ground rent, at which point the difference from outright ownership becomes theoretical The soviets of regions, territories, districts, and cities set aside land for the purpose and determine the size of the lots, from 300 to 600 square meters in towns (about 100 x 33 feet to 200 x 33 feet) to 700 to 1200 square meters in suburban areas The state makes loans up to 20,000 rubles ($1600) repayable in ten to fifteen years for the purchase of the material for the house, and the local soviets may provide this The man may build his own house or call in the carpenters' cooperative He may sell on certain conditions but may not own more than one house at a time

The ground rent is four to eighteen kopecks per square meter annually, varying with the location of the lot and highest for city land The kopeck is 1 percent of the ruble, which is worth eight cents in internal transactions A 300-square-meter lot in midtown would cost 300 x 18 or 5400 kopecks or 54 rubles, which is $4 32 a year In Kiev, we are assured, workers have built 4500 homes for themselves in the postwar years and were to finish another 3000 by the end of 1948, a total which might not make much difference to the population, which exceeded half a million in 1940 [22]

Few Russians had bicycles before the war and not many more have them now The passenger car, however, has made a faint appearance before the public The Minister of Automobile and Tractor Industries in the last months

only 59 *Bulletin*, August 26, 1949, p 503 This engineer may live better than an unskilled worker, but the item shows the great cost of food

The Moscow family is cited from a dispatch in the Buffalo *Evening News*, May 4, 1949, by Colonel James C Crockett He says there are very few electric appliances like irons, vacuum cleaners, washing machines The severe labor code is in Gsovski, *op cit*, pp 802-820

[22] *Bulletin*, November 17, 1948, p 718 Gsovski, *op cit*, pp 106-107 The inequalities of wage have naturally produced inequalities of housing by districts John Scott, *Behind the Urals* (Boston, 1942), p 234, describes Magnitogorsk thus head men, in mansions, 2 percent of the population, upper middle class, in apartments and individual houses, 23 percent, lower middle class and factory workers, in barracks and temporary housing, 50 percent, casual laborers, in mud huts, 25 percent

of 1948 opened showrooms for private sale of cars and motorcycles in Moscow, Leningrad, Kiev, Tiflis, and Baku, and hopes to do likewise soon in other cities The to-be-popular car is the Moscovitch, a low-powered four-seater The other type shown is the Pobeda or Victory, heavier and dearer, and the price in both cases is undisclosed Among the buyers of the Moscovitch were a mechanic, a foreman, a director (manager), a locomotive engineer, a research worker and a lion tamer Two Pobedas went to an engineer from the Dnieper Dam and a coal miner from the Moscow field All these buyers were skilled workmen and highly paid, for many years the merest handful of Russians will have cars The avidity with which Soviet citizens abroad rush to buy watches, commonplaces in even poverty-stricken countries in western Europe, indicates how little they have of the comforts and conveniences of the Western world [23]

The worker may spend his vacation in a number of ways A trade unionist may go to one of the union's rest homes or try for a place on its quota of accommodation in the Black Sea area This is the favorite resort area and he may need to wait several or many years before his turn comes around The state health resorts under the Minister of Health make reservations for the needy members of organizations like trade unions and will sell to the public any places not booked The vacationist may go to friends in town or country as he will, or to any hotel with accommodation, or may take a tour organized by Proletarian Tours, which can offer him a large assortment of trips There is a strong inducement to use the trade-union accommodation the social insurance fund will pay up to 70 percent of the cost

The ordinary vacation is two to three weeks Professional people have longer, teachers get two months Persons engaged in trades injurious to health have two weeks extra All vacations are paid in advance The chief problem at present is shortage of accommodation at the seaside resorts, and the current five-year plan calls for expansion of facilities to provide for half a million people at once, which again will not nearly meet the demand [24]

## *CONSUMERS' COOPERATIVES*

As has been said, cooperatives for consumers existed in old Russia and had a central organization, Centrosoyus The Communists approved of them and inserted party men into control, and in 1946 attached a chief administration for the affairs of producers' and consumers' cooperatives to the Council of Ministers of the U S S R The role of the cooperatives is to manage retail trade in the country The government has the business in the towns but has allowed a few cooperatives since 1946, of no importance to date No private individual may enter the field except street vendors

The organization of the cooperatives is similar to that in other countries

[23] *Bulletin*, December 22, 1948, p 759
[24] *Ibid*, May 14, 1947, pp 20-21

The consumers of a given area hold a meeting and elect a managing committee and others as needed, e g , for audits The minimum age of membership is fourteen, of voting sixteen, each member pays an entrance fee and contracts for a share, the money to go to capital They apply to the local soviet for a building and equipment and to the central organization for permission Having obtained these, they adopt a charter on a government model and enjoy the legal rights of a person

The basic units associate by districts, elect delegates, hold conferences, and elect district executive committees The district asociation is the chief wholesale trading organization It promotes relations with other organizations for the purchase and sale of goods, sells to the units, instructs their officials, and checks their business It may go into business for itself and operate shops, factories, tearooms, restaurants, bakeries Like their English counterparts, the cooperatives have scores of thousands of small factories producing household goods like clothing, table linen, shoes When they buy from the state, they sell at prices fixed by the state and get a commission If they produce goods themselves, they sell at prices set by regional unions of cooperatives

Above the active district associations are regional and territorial associations and central unions in all the republics but the R S F S R Here the regions and territories affiliate directly with the Centrosoyus, the central union of consumers cooperatives for the U S S R The Centrosoyus, nominally elected by the republic societies and those of the R S F S R divisions, is an agent of the government and takes orders from the Council of Ministers Each grouping gives orders to the lower units and may remove their officials from office

In 1940 the consumers' cooperatives had 227,680 units, including 28,000 village stores, 17,500 eating places, and nearly 23,000 bakeries No statistics are available for 1948 but probably there has been only a slight expansion The cooperatives employ nearly 900,000 persons Three educational institutions train experts and staff, fifty cooperative high schools, over a hundred cooperative trading schools, and numerous courses for adults give the elements of cooperation

The village consumer societies have risen in number to 30,000 and have 35,000,000 members The meeting elects a board, a chairman and secretary, and an audit committee, all for two years but subject to recall at any time Part of the profits go to the requirements of the society, part are distributed among members Short-term credits are available from state banks for working capital [25]

## *AGRICULTURE*

The Soviet government is liberal with information about state and collective farms and reticent about the individual peasant, a despised and suspect creature worth only the remark that he and the independent handicraftsman are not

[25] *Ibid*, February 28, 1948, pp 120-121, July 28, 1948, pp 451-452

a significant sector of the Soviet economy Prewar statistics admitted 1,300,000 families on 2,400,000 acres, inviting us to believe that the farmer and his family can live off less than two acres Postwar Russia has millions of small farmers in the Baltic states and Moldavia and in the current five-year plan decided to support them with land, stock, tools, and machines from the M T S and horses from special hiring stations This has been done, in Lithuania, the government gave land to 92,000 peasants, helped them with livestock, implements, and buildings, and lent them motor machinery to cultivate their lands It has formed 300 collectives, entirely on voluntary principles, we are told Elsewhere, the story is different, the Junker estates in East Prussia have become state and collective farms and most of the land in Transcarpathian Ukraine has suffered the same fate Policy seems not fixed, the outsider may suspect that we have a far from complete account of the peasant in Russia but is unable to verify his suspicions [26]

At any rate, all the publicity goes to the state farms and the collectives Of the state farms, there were 4000 in 1940, averaging 7000 acres each, of the collectives, 242,000 averaging 1200 acres and depending on 7000 machine tractor stations There were 550,000 tractors and 182,000 combines Sixty-eight higher and 660 secondary schools in agriculture had 125,000 students, of whom 20,000 were graduated each year But the war worked havoc with this apparatus, and on January 1, 1947, there were 222,000 collectives, 4234 state farms, and 7584 machine tractor stations What the variation of figures means is hard to determine [27] Possibly some collectives overrun by the Germans had been abandoned or consolidated, and the increased number of M T S's had less machine power than those of 1940 The extension of state farms rather than collectives seems to be a trend of Soviet economy and accounts for the increase in acreage of the postwar years

The state farm, *sovkhoz*, is owned by the government and managed by a director, who hires his labor and reports to the Minister of Agriculture of the U S S R The farm pays wages and may rent housing to the worker at 5 percent of his wage, or help him to build his own cottage The largest sovkhoz is the Gigant or Giant in the Rostov region By our account, the land used to be barren, the crops meager The government introduced crop rotation, deep plowing, harrowing, seed nurseries, and modern machinery and planted forest belts to keep off the wind All this effort has its reward, says our story, the earth is rich, the harvest bountiful The farm has seventy combines of an improved type which mow, thresh, and stack straw and hay and in one week harvested more than 34,000 acres of winter wheat The state-

[26] *Ibid*, August 7, 1946, p 12, February 11, 1949, p 72, April 22, 1949, pp 259-260, June 24, 1949, pp 393-395 See V Gsovski, *op cit*, pp 105-106, for the law about the single farmer He pays higher taxes than the collective farmer and a special rate on horses The land belongs to the household, not the individual, and may not be alienated

[27] Harry Schwartz, *op cit*, p 55

ment says too much, for of course hay is not threshed, and the accompanying picture shows it tied in bundles, not stacked in the western sense, which would be impossible for any combine The farm has an agricultural institute which trains specialists, an elevator for the grain, and a kindergarten for the children of the workers We have no statistics on the grain yield but are assured that Soviet science and workers have performed miracles Some of these farms are experimental like the one in Igarka devoted to arctic horticulture and crops They are often called "grain factories" [28]

The Soviet farm of propaganda fame is the collective or kolkhoz, in theory a producers' cooperative working from a model charter of 1935 It is under the land department of the district soviet, which is under that of the region or territory and this again under the minister of agriculture of the republic In 1946 a council for collective farms was formed consisting of the Minister of Agriculture of the U S S R and leaders of the party and the government and reporting to the Council of Ministers This council has agents in republics and regions or territories who give orders to the collectives Authority comes from above, the farmers do what they are told, with some latitude about the means

A common collective of the present day would have 200 households on 2700 acres at a rate of 13 5 acres per household including the homesites Of the 2700 acres, 1400 are arable for winter wheat and rye, spring wheat and oats, potatoes, vegetables, fodder roots, etc , the other 1300 are pasture, marsh, woodland, and the allotments for personal use Each family has a house, a yard, a garden, a homestead of one or two acres, and a few animals and poultry, all to call its own The rest of the land and livestock belongs to the collective and cannot be alienated without consent of government In origin, the collective had non-motor machinery, herds, draft animals, flocks, and central buildings, now a few of them have some motor machinery like the Shevchenko farm twenty-five miles from Kiev, owner of three trucks and twelve combines All able-bodied persons above sixteen years of age help with the work—men, children, and women, who leave the infants in the nursery and other junior children at school [29] Before the war, women were 55 percent of the farm labor force, during the war they were 75 percent of it and are now somewhere between the figures There is a large administrative staff, bookkeepers, storekeepers, nursery employees, etc The government sets the program, requires taxes and quotas of produce for itself, the M T S, and the consumers' cooperatives and lets the farm pay its expenses and dispose of what is left

In theory, the affairs of the farm are managed by a general assembly of

[28] *Bulletin*, August 25, 1948, p 498 Ruth Gruber, *I Went to the Soviet Arctic* (New York, 1944 ed ), chap 8

[29] *New York Times Magazine*, February 27, 1949 *Bulletin*, September 8, 1948, pp 540-542

members sixteen years of age and over This body elects an executive every two years, consisting of five to nine persons, and other committees, and the executive in turn chooses a chairman In practice, the Minister of Agriculture nominates the chairman, a professional from an agricultural school, and moves him from place to place Generally the chairman is a party man, he works with, i e , dictates to, the executive, which meets twice a month He manages the central office, consults the district agronomist, and issues orders to the brigades of workers, the storekeepers, and the livestock manager, who has cattle, hogs, sheep, and poultry and a squad of workers for them [30]

On our farm there might be six brigades, four for field work, two for vegetables A field brigade would be responsible for a set acreage of the different crops, a vegetable brigade for about forty-five acres of vegetables Each brigade is formed into links or squads of about nine people The brigade leader controls the work of his men and records the work of each in a book An adult works from sixty to a hundred labor days a year for the collective, eight hours a day The labor day is calculated on the average work of the members and is an uncertain unit of time, and it entitles the worker to no pay as such, merely a share in the surplus produce The rest of the time the workers spend on their personal plots and livestock, small and few respectively and the neatest of the lands Being on shift for only eight hours a day, the collective farmer has a much easier life than his colleagues in the west

Most of the strenuous work of seeding, cultivating, harvesting goes to the machines of the tractor stations These depots have tractors, combines, plows, trucks, cultivating implements, operators to work them, mechanics to keep them in repair, and a staff of office employees The station sends out men and machines at seedtime and harvest to prepare the ground, sow the crops, and reap them in due course The operators keep a record of the yield for the government's benefit, charge the farm 20 to 25 percent of the crop, collect it on the spot, and turn it over to the state granaries The director is a party man and has three vice-chairmen, one a political agent, one an agronomist, one an expert on machinery

In 1948, the M T S plowed 80 percent of the collective fields, did 90 percent of the cultivation, sowed over 50 percent of the spring crops, and did most of the harvesting The rest of the work was done by man and animal power, except for the few collectives that had motor machinery of their own The combines harvested more than 60 percent of the grain in the Kuban and Volga areas and Siberia and 80 percent in the Stalingrad and Saratov regions The seasonal average of work per combine was 300-350 hectares Fifty thousand operators were trained at schools organized by the M T S The latest ma-

[30] John Fischer, *op cit*, p 208, notes that the party organ discussed all matters to come before the farm assembly and simply put its decisions through

chines are self-propelled, the latest gadget is a radio set for use between the machines in the field and the men in the office On average in 1940 there were 105 machines to a station [31]

After harvest and the toll of the M T S comes the reckoning The manager and his staff keep seed, straw, and hay for sowing and forage and set aside the quotas for the government and the cooperatives They must send enough to market to obtain cash for taxes and expenses, the cost of central buildings and staff, insurance, improvements to the farm The insurance fund provides for illness, disability, old age and has no help from government as in urban industries What is left of the money and crop may be distributed among the workers or sold on the collective farm market If it amounts to 25 percent, the farmers are fortunate

The government takes the largest share of produce at fixed rates which vary little from year to year and are much below the market rate This is convenient for the government, which knows just how its accounts will go, and hard on the farmer, who gets no benefit of a rise in prices When the state has had its quota, the manager sells another share of produce to the cooperatives at prices a trifle above the government rates In the west this compulsory sale at below-market rates would be exploitation but in Russia it becomes service to the state

The cooperatives also buy whatever the farmers will sell from their personal crops and livestock and transport it to the storehouses and markets Individuals may sell in the collective farm markets but must do it in person, the middleman is a bourgeois parasite and outlawed The markets have improved their equipment of late In 1945, by direction of the government, 1200 booths were opened, about 240 warehouses were built, 55 hotels, 260 inns, 700 restaurants were set up to cater to the farmers, and sixty model markets were opened—a mere beginning for the 222,000 collectives [32]

When government, cooperatives, and various taxes and insurances and overhead expenses have been assured of their due, the wage account gets attention Each farmer gets produce and cash, if there is any, according to the type and amount of work he has performed during the year A percentage may be advanced during the course of the year, based on the deliveries already made to the government, as an incentive to work The farmer lives from this dividend and the produce of his personal plot and livestock, of which a cow, two pigs, and a dozen hens would be a common holding Generally he has barely enough to feed his family and buy necessaries like shoes and clothes Manufactured goods are scarce and dear, farm produce brings a

[31] *Bulletin*, September 22, 1948, p 585 Fischer, *op cit*, p 206

[32] *Bulletin*, September 8, 1948, pp 536-537

If a collector is not served by an M T S, it pays 25 percent more in the deliveries to government than one which is so served The law on collective farms is in Gsovski, *op cit*, chap 20, 21

low fixed rate from government and cooperatives and the farmer is caught between

All this is no novelty to the Russian farmer He works land which is not his own, at the orders of an official, he takes what other people assign him as reward for his effort, he may not leave the farm without permission, and for his effort and confinement he has a bare living He works a third of his time for someone else and has a personal plot to look after This of course is essentially serfdom and leaves the Russian where his great-grandfather was before 1860

The peculiarity of crops, vegetables, and animals is that they need constant, close, and intimate attention to do well—the kind of service a man gives to his own property and not to someone else's The Russian farmer puts as little effort into the collective crop as he can and less into care of the collective animals The yield of wheat is still about the 13 5 bushels an acre of 1913 and is on average as low as eight to ten in the Ukraine Seventy percent of the cows in the Ukraine were on the homesteads in 1946, having been diligently saved when the collective animals were abandoned to the Germans The benefit of machines is lost in decreased effort and leaves production on a particular acreage about the same The persistent shortage of animals means a shortage of fertilizer, which again means poor crops [33]

That the country has had more grain comes from extension of the area sown, 34,000,000 acres in 1948, the greatest annual increase on record The gross crop of cereals for 1948 was about the figure for 1940, which was for a smaller area At the end of 1947, rations were abolished, and in the fall of 1948, more food was available in the towns than at any time since 1917 and much in evidence in the new food and dairy shops of Moscow The comparative abundance rests on the use of new land by the state farms, which is a precarious foundation Some good yields are reported—thirty to thirty-five bushels an acre and even seventy are spoken of—but the average is poor, much below that of western lands with their single ownership Some increase in the number of collective animals leaves the consumer still short of meat and the land of fertilizer [34]

From the standpoint of production per laborer, the collective farm system is the least efficient invented Two hundred households on 2700 acres would

[33] John Fischer, *op cit*, p 214 "Annual Report on State Plan Fulfilment," *Bulletin*, February 11, 1949, pp 67-72

Some abuses were uncovered in 1946, the farmers in the good areas were increasing their plots at the expense of the collective and often had practically divided up the collective land, to a total of 2¼ million cases Labor days were credited to nonworkers like barbers and clerks to increase their incomes, perhaps with some reason Some officials were making private exactions from the farms, others were ignoring the general meetings The government used its heavy hand and, by its report, restored order and put an end to abuses The episode left it clear what the farmer would do if he had the chance

[34] John Fischer, *op cit*, p 214, states that the estimates are often based on the standing

provide a labor force of about 600 persons, the office staff might be twenty, the share of M T S personnel twenty In the United States about twenty households on the same area with a labor force of sixty, letting the women do the housework, would get much better production in crops and animals All accounts agree that in Russia from five to twenty men and women are doing one man's work

The village is not without benefits attributed to the Soviet regime There is a community house with an auditorium for meetings, films, the radio, and adult education of several sorts It has a reading room with newspapers and magazines and a nursery for the infants There is a school for the children and a cooperative store which sometimes has what is wanted There is a doctor within ten miles and a hospital at the district center, perhaps nearer Some electricity is coming in, in 1948 it reached 7000 collective farms (out of 222,000), a thousand motor stations, and hundreds of state farms, especially about Moscow Houses may be lighted and radios installed on easy loans from the government, it being assumed that outright payment is out of the question There are pensions, sickness and maternity benefits, help with care of children, and schooling for them which may enable them to enjoy careers But many of these good things would have come with a liberal regime as well as better prices for produce and better and cheaper consumer goods There are practically no vacations on the farms, the Ministry of Agriculture has a few hotels marked for agriculturists, which make no difference to the vast mass of farmers There are political meetings and lectures about production, the farmer may attend but would sooner sleep He is apathetic about communism and rarely joins the party If he had liberty, he would speedily divide up the land in single ownership again, and no doubt he dreams of the time [35]

The houses of the village are still of log, with thatch or plank roofs, and many sag with age, they face the muddy and rutted streets as of yore Except where Ukrainians are about, they are innocent of paint and decoration Most of them have two rooms, the others one The farmer, his wife, and baby sleep in a bed in the living room, the other children in the bunks in the kitchen The icon has resumed its place in the corner A church is available in this or the next village, although churchgoing is not what it used to be Externally, the village is much as it was in the old times

The postwar five-year plan of course has a section for agriculture In 1946 there were ninety agricultural colleges with 60,000 students and 500 secondary schools with 130,000 students in four-year courses By 1950 the total output

ripe grain and do not allow for the wastage of harvests, which may reach five bushels an acre with combines

The yield in Canada in 1949 was sixteen bushels an acre for spring wheat, twenty-five for fall wheat In Great Britain the yield was thirty-two bushels an acre The United States averages about sixteen Seventy and even a hundred bushels have been grown on one acre, purely as an experiment

[35] *Bulletin*, January 14, 1949, pp 4-5

was to have reached 18,000 agronomists from the colleges, 60,000 from the secondary schools every year Besides them will be 35,000 animal technicians and 26,000 veterinary doctors for state and collective farms With regard to mechanics, there are to be 325,000 more tractors and 950 new machine tractor stations, and to electricity, 1000 engineers and 3000 technicians in rural electrification Finally, there will be 1200 engineers and 6000 technicians for agricultural survey work The grain harvest is to be 127,000,000 tons, about which the vagaries of nature may have a say

On the whole, these objectives are not overambitious and ought to be realized [86]

Russia continues short of meat, and a decree of April 19, 1949, recognized the backwardness of animal husbandry and sought to correct it Meat, fats, milk, butter, eggs, leather, wool now enter on a three-year program of increase At the end of 1949 animal resources were as follows, in millions of units

| | |
|---|---|
| Collective cattle on collectives | 24 0 |
| State farm cattle | 4 0 |
| Individuals' cattle on collectives | 19 1 |
| Workers' cattle on plots | 7 0 |
| Individual peasants' cattle | 3 9 |

This makes a total of 58,000,000 cattle, the same figure as in 1917 The few state farms (4234) produce one-sixth as many beasts as the 222,000 collectives, the individual farmers on the collectives on their small plots produce nearly as many as all of them put together on the wide spaces of the collective pasture Even the workers on their victory gardens can do proportionately much better than the collective farms This is quite enough to condemn the collective system utterly for all whose eyes are not blinded by theory The present plan is to increase collective and state herds by 11 7 millions at the end of 1951

| | |
|---|---|
| Sheep and goats at the end of 1949 (collective herds) | 62 4 million |
| State farms | 9 3 million |
| Individuals on collectives | 26 5 million |

Collective and state herds are to rise by 29 8 millions at the end of 1951

Hogs at the end of 1949

| | |
|---|---|
| Collective herds | 10 0 million |
| State farms | 3 4 million |
| Individuals on collectives | 7 2 million |

Poultry at the end of 1949 are to be 65,000,000 in collective flocks, 350,000,000 in private flocks The collective flocks are to rise to 200,000,000 by the end of 1951—still many fewer than those in private hands

Animal specialists will receive pensions of 50 percent of their wages at age fifty Prizes, awards, and honors will be given to farms which do well

[86] "Two Hundred Thousand Farm Experts," *ibid*, July 31, 1946, p 14

in stock raising, barns, sheds, and mechanical equipment are to be provided Everything will be done except the obvious thing to give the individual his land as he wants and let him raise beasts and fowl as he wants The story of the collective arrangements is the triumph of theory over experience

In Great Britain, 8,000,000 people (farmers and families) on 48,000,000 acres of farming land have 85,200,000 of poultry and nearly 10,000,000 of cattle The Russian farm population is fifteen times that of Great Britain, the area of farm land fifty-six times The total area of Russia is about eighty times that of Great Britain

The United States in 1948 had animals as follows

| | |
|---|---|
| All cattle | 78 5 million |
| Milk cows | 25 0 million |
| Sheep | 35 0 million |
| Hogs | 55 0 million |
| Horses and mules | 9 0 million |

## Chapter 43

# *Soviet Government and Public Services*

### *EDUCATION*

THE AIM of Soviet education is stated as a grounding in science, culture, and morality The science extends to the latest achievements and their applications to daily life and tends to be technical and practical The culture includes appreciation of the beautiful in nature and society and comes by a study of literature, art, and music, vocal and instrumental Morality is to develop self-disciplined, steadfast, strong-willed, truthful, honest, and industrious men and women conscious of their social duty and devoted to the interests of the working people The physical is not forgotten, there are sports and gymnastics Much of this theory is acceptable to western society, the conspicuous omission is the preparation to think for oneself We may add that the self-discipline has little chance among the commands and prohibitions of a totalitarian society, that the truth and honesty will be subject to a severe strain if the learners join the party or share extensively in public life

Education has also a social aim to produce a socialist and national culture with equality of sex, race, and nationality All learn to be Russians, but the minor groups are to keep their habits and languages so long as these are politically harmless Accordingly there has been a great development of schools among the minor nationalities, especially in Asia Some of them had no alphabet before Soviet times, all have had help in their literature, art, and drama Naturally, the Russian language and literature is obligatory on all, after the elementary stage

Russia has compulsory free education in the lower grades, a single state school system separate from churches, and a close relation between schools, social organizations, and parents There are no private schools, no religious instruction or rites and no religious explanations of natural and social phenomena Dogmatic atheism, however, is no longer taught There is much drill in the virtues of communism and the vices of capitalism and czarism, much adulation of Lenin, Stalin, and other Soviet heroes, and some military training in the later grades Arithmetic is pressed into service to show the superiority of communist over czarist Russia by comparative calculations Civics teaches

that parliamentary governments are a fraud and the Stalin constitution of 1936 the example of perfect democracy Geography denounces conditions in western and colonial countries, the Soviet child is to shudder when he points out New York and its infamous Wall Street The official history of Russia shows the progressive emergence of classes until the glorious events of 1917 Nevertheless, much of the material in these subjects would arouse little comment in a western school

In respect of ethics, the Soviet child has a mixed training He learns to love all races and colors of mankind and to regard antipathy on grounds of race as a low form of bestiality He acquires his own antipathies, however the person who works for himself, the person who hires another, the person who rejects communism, the patriots of countries out of the Soviet sphere of influence Most of mankind is wrong, and the Soviet citizen abroad will shun the natives as a Mississippi planter would a convention of colored people There is no brotherhood of man, only sectarianism

Coeducation is the rule In 1943 the secondary schools of large cities—186 at present—were divided into boys' and girls' schools on the theory of difference in the rate of mental and physical development For instance, girls must take pedagogy to fit them to be mothers, but boys, as prospective fathers, for some undisclosed reason can do without this art The general subjects for both are alike and the graduation certificates identical But the double school is expensive, and coeducation persists outside of the 186 cities[1]

Soviet Russia has nurseries, kindergartens, elementary schools and seven-year schools in which the first four years are the same, and secondary schools consisting of grades eight, nine, and ten, normally in the same buildings as the seven-year schools In 1949 there were 220,000 elementary, seven-year, secondary, and technical schools with 34,500,000 pupils and 1,300,000 teachers The state system is under the Minister of Education of the U S S R and his counterparts in the republics, regions, areas Locally the schools are managed by departments or boards under the executives of the soviets

The child spends the daytime hours of his first three years in a nursery while the parents work unless there is someone, like a grandmother, to take care of him at home He is classed as an infant, then a crawler, then a toddler In a good nursery he will have a playroom, sleeping room, dining room and will get three meals a day When he can, he learns to play, with toys requiring collective effort as much as possible, e g , large building blocks which take the joint effort of two or three children This discourages unwholesome tendencies to individualism Parents help pay the cost, twelve to sixty-five rubles a month in one nursery in Moscow[2]

[1] The theory of education is set forth by Professor Eugene Medinsky in a series of articles beginning in the February 11, 1949, issue of the *U S S R Information Bulletin*, pp 89-91

[2] *Bulletin*, August 20, 1947, pp 26-27

Kindergartens are for ages three to seven Old Russia had only 275 institutions of this type, private and for the well-to-do In 1948 the USSR had about 27,000 kindergartens for the use of a million and a half children, the RSFSR had over 17,000 of them Accordingly the USSR claims to be the first in the world in the number of children enjoying a preschool education Each kindergarten has a parents' committee elected by the parents for a year at a time In the summer the children go to play centers, often operated by trade unions Some such arrangement is necessary where the home consists of a room or part of one

The kindergartens are organized by boards of education, plants, cooperatives, and collective farms and in no case by private persons, considered as exploiters All conform to the standards and use the methods of official texts, e g , the *Rules for Kindergartens in the RSFSR* (1944) Inspectors from the ministry of education of the union republic visit them and take note of the management, teaching, and equipment

The children are commonly in three groups—by age three, four, five—and remain in the kindergarten nine to twelve hours a day, depending on the work of the parents The normal is nine or ten hours, to permit the parent to come with the child, work eight hours and return for him, school buses not being yet available The child gets three meals and a nap of an hour and a half after lunch He learns to wash himself, brush his teeth, go for walks if weather permits, and to play games in sun, air, and water He begins academic work counting, addition and subtraction to ten, the names of the numbers, units of weight and measure, the days of the week, the telling of time by the clock He uses his native language, hears stories, fairy tales, and poems, and learns to tell stories and describe events He begins to draw, model, sing, and use a musical instrument Wherever possible, the instruction is by play

By our account, the child learns to love his parents and his country, to respect his elders and to behave properly in public, to be truthful, modest, and conscientious—at least until the party requires other qualities—and to respect all peoples regardless of race and nationality except those with the wrong social and political ideas Directly and indirectly, he gets a first installment of dogma and a favorable view of communism

The teachers have pedagogical training over and above ordinary training in schools or departments of schools for the purpose In the RSFSR there are fifty-two preschool pedagogical colleges and twenty-six institutes or colleges with preschool departments Other republics have similar institutions in a less imposing array In Moscow and other centers of republics, regions, and districts there are consulting rooms—to a total of 550 in the RSFSR—for the dispensing of advice to teachers and parents on the care and management of children The ministry of education of the RSFSR has

an extensive literature on education for them and publishes a journal, *Preschool Training*[3]

For the elementary and seven-year schools the teacher has attended a training college for three years, she may read the handbook *Pedagogy* and the official *Teacher's Gazette* She may get as little as 500 rubles a month in the country, 2000 rubles in Moscow, she has two months off with pay, pay if ill, and a pension equal to 40 percent of her last salary if she has taught twenty-five years She may get the Order of Teacher of Merit and 300 rubles a month above her salary She has rewards of honor also the badge of labor heroine for ten years' service, of distinction in labor for fifteen, of honor for twenty, and of the red banner for twenty-five Westerners might be inclined to reverse the order and place the first last

The elementary school is for four years only and has persisted in rural areas but seems on the way out as universal compulsory seven-year education was planned for 1949 As it gives precisely the same instruction as grades one to four in the seven-year schools in the towns, we need concern ourselves only with the seven-year school On finishing the first four years the pupil is admitted to the fifth grade of the seven-year school without examination All subjects in the first four years are taught by one teacher, beginning with the fifth grade, subjects are taught by specialists In the first three grades the pupils learn Russian language and literature, including elementary grammar and spelling, arithmetic, freehand drawing, singing, and physical training The non-Russian national schools use the native tongues for instruction and teach Russian from the second grade on

The language and literature course continues through the school and includes systematic grammar, penmanship, and the best examples of literature of all the peoples of the U S S R Arithmetic goes through the school also, algebra and geometry appear in grades six and seven Natural science begins in a general way in the fourth grade and develops into botany, zoology, anatomy, human physiology, and dogmatic Darwinism through the ninth grade History begins in the fifth grade with primitive society, the ancient East, and Greece, takes up Rome and the early Middle Ages in the sixth, the later Middle Ages and modern times up to the French Revolution in the seventh grade, the rest, including the history of Russia, in the top grades The seventh grade also study the constitution of the U S S R, learn that "the Soviet system is the highest form of democracy," and discover "the tremendous achievements of socialist construction in the U S S R" The history is based on materialist theory

Geography goes through grades four to seven, physics through six and seven, chemistry through seven, and both continue in the top grades A foreign language begins in the fifth grade and continues through the tenth grade, it is English, French, or German, the first the favorite There is no

[3] *Ibid*, February 25, 1949, pp 124-126

promotion examination until completion of the fourth grade, then such tests come every year At the end of the seven-year school there are graduation examinations and important decisions to take on the lifework of the pupil [4]

The play is of ordinary and military games, toy locomotives, tractors, guns, and tanks sit side by side The children sing military and patriotic songs, possibly without the tinge of discomfort attending outward demonstrations of patriotism in the west They see on every hand busts and pictures of Lenin, Stalin, and the heroes of the civil and patriotic wars and get plenty of communism

Grades eight, nine, and ten permit specialization, a little of which is possible earlier, e g , two or three languages, including Spanish or Latin The last language, out of favor for thirty years, returned in 1948 to eight schools, four each in Moscow and Leningrad, professedly as an experiment Greek still awaits the university, though in Russia's tradition Foreign languages, especially English, are popular studies in many places, e g , factories, the armed services There are schools for persons with physical defects like the blind and the deaf, in both general and vocational subjects On the secondary level also there are schools for older and working youth in industry and on the farms, with classes at times which do not interfere with work The students pay no fees, take a curriculum identical with that of the middle school, and receive vacations with pay to write their examinations The term *youth* in this connection is elastic and includes anyone with the capacity to study It is possible for anyone to change his occupation by fitting himself for another in some such way [5]

The schools have circles which students join to improve their knowledge or practice of some subject or art Some cities have extraschool facilities for the children clubs, parks, excursion and travel stations, gardens, laboratories, theaters, film houses, etc In 1947-1948 the R S F S R had 621 children's clubs, 289 laboratories for young technicians, 189 laboratories and gardens for young naturalists, 84 children's parks, 40 excursion and travel stations

All schools have parents' committees The parents visit the schools often, the teachers visit the homes, study the living conditions of the pupils, and advise the parents on the upbringing of their offspring, when asked The school gives lectures to parents on the raising and management of children in addition to its usual classes for adults It would seem that Russian parents need and get a considerable quantity of education

At the end of the seven years, the pupil has several choices He may take an unskilled job immediately, go to a vocational school under the Minister of Labor Reserves or to a *technicum* or special secondary school for preprofessional work Or he may finish the school (grades eight, nine, and ten) and

[4] *Ibid*, July 29, 1949, pp 440-442

[5] I have adopted the names of schools in *ibid*, July 29, 1949, p 443, elementary, seven-year, secondary, technical The term *middle school* seems to have been dropped

go to a university or other place of advanced learning or to a party school The expectation is that the duller pupils will leave school, the brighter ones will finish the ten years The best scholars pay no fees in the last three grades, the others 200 rubles a year The party schools are open only to active *Komsomols* who have the endorsement of party members, they lead to jobs as propagandists, organizers, journalists immediately and to great things beyond Besides them are the schools for officers in the services

The *technicums* are broader than western technical schools, they train students for white-collar jobs as assistants to professionals in many lines, e g , industry, transport, agriculture, health services Some teach foreign languages for use in a job The students have state pay, live in dormitories, study for three or four years, and at graduation may work at their crafts or continue their education In 1948 over a million pupils attended the technicums and other specialized secondary schools and 252,000 were graduated, an increase of a third over the figures of 1940

Most of the students who finish the seven years go to the care of the Minister of Labor Reserves and may choose their occupations if the plan allows If the state needs workers in a particular line, it assigns quotas to republics, regions, districts, and cities, calls for volunteers and generally gets enough but may use compulsion The children go off with a patriotic fanfare and no doubt many are happy about it They will go to either apprentice schools or trades and railway schools, the total of both being about 4200 The factory apprentice schools take boys of fifteen to seventeen and girls of sixteen to eighteen and give them about six months' training in the mass trades like mining, carpentry, cabinetmaking, plastering, plumbing, all at government expense The trades and railway schools give training up to three years at government expense and turn out skilled workers for factories and transport They have much practical work on machines and make goods to be sold where this is possible, they learn the technology of metals, drafting, physics, chemistry, mathematics, Russian language, literature, and history On graduation, these students must work four years at their crafts If they want more education, they may have it at working youth schools, which give secondary education after hours In 1946 there were 1500 such schools for 190,000 young workers [6]

Teacher training in the Soviet Union is based on the existence of the three types of school elementary, seven-year, and ten-year The ordinary pedagogical school trains teachers for the elementary schools during a four-year course of study It admits boys and girls of the seven-year school who pass an entrance examination The subject matter is the same as in the senior grades of the secondary school Russian language and literature, mathematics, physics, chemistry, natural science, geography, general history, and the

[6] *Ibid*, July 17, 1946, p 24, August 25, 1948, pp 503-504, September 8, 1948, pp 526-528

history and constitution of the U S S R For professional purposes the school teaches psychology, pedagogics, methods of teaching, manual and physical training, singing, drawing, and calligraphy, and it gives the students observation and practice teaching

The teachers' institute trains teachers for the fifth, sixth, and seventh grades in a two-year course, it admits young persons with a ten-year education who can pass entrance tests The curriculum is physics, mathematics, natural science, geography, Russian language and literature, history, Marxism and Leninism, psychology, pedagogy, teaching methods, and of course practical teaching and observation

The pedagogical institutes train teachers for the eighth, ninth, and tenth grades in a four-year course, admitting the graduates of the tenth grade who get the best marks in the entrance tests They specialize and have usually the following faculties language and literature, physics and mathematics, natural history, science, geography, and history Many have foreign language faculties also, some have physical education and sports, others have pedagogics to train teachers of the subject Students of all faculties get Marxism-Leninism and political economy, those of language and literature, natural science and history get these and dialectical and historical materialism, and no one is likely to escape the official ideas All, of course, receive instruction in the pedagogical sciences psychology, pedagogics, history of the latter, and methods of teaching in the secondary schools All naturally take a turn at observation, practice teaching and extracurricular work The universities also train teachers for the senior grades of secondary schools, having a five-year course for the purpose

Teachers may improve their qualifications through evening classes and correspondence courses The evening classes are for the city teachers, the correspondence courses for those in the country, who do regular written assignments and twice a year, each time for a month, come to the institute for lectures, laboratory work, and examinations When the correspondence students have finished their work, they receive the same diplomas as the day students In brief, the teacher has no excuse for resting on her oars As in other countries, the profession has a special appeal to women [7]

The U S S R had 808 establishments of higher learning in 1949 with 734,000 students Thirty-one are universities like those of the west with 64,400 students, the rest are professional or occupational schools The country boasts of more students than the rest of Europe combined All the institutions are under the Minister of Education, who appoints the rector or president in each case Students and teachers pass an examination on politics before they begin work

Moscow University is opposite the Kremlin in a set of yellow and white

[7] *Ibid*, May 27, 1949, pp 329-330

buildings dating from 1812, the originals having been burned during the French occupation The rector at present is Ilya Galkin The professors are chosen by secret ballot of a committee composed of heads of departments The pay is from 1500 rubles a month for junior assistants to 12,000 for the heads of departments, which puts them among the best-paid groups of the Soviet Union and furnishes a shining example to the rest of the world, as every professor will agree Nevertheless, only 25 percent join the party, and these for the sake of appearance

The university occupies several city blocks with its lecture rooms, research institutes, laboratories, library of 2,000,000 volumes, students' clubs, and dormitories for out-of-towners It had 7000 students in 1946, 8000 in 1947, twelve faculties, 150-odd chairs, over a hundred laboratories and institutes It has its own sanatorium on the Black Sea and a vacation home near Moscow It has outgrown its accommodation and is to have a new site in the Lenin Hills There will be a main twenty-six story building, other buildings of several sorts, and apartments for students and professors, a botanical garden, a large park and stadium with soccer fields and sports grounds covering an area of 275 acres [8]

The student goes to a university for four years, pays a fee of 300 to 400 rubles a year but gets an allowance of 250 to 450 rubles a month and free lodging if he comes from out of town The best students have Stalin stipends to bring the total to 800 rubles a month The student has the ordinary athletics as recreation but no intercollegiate spectators' sports except soccer He may attend two dances a year, on May Day and November 7, but has little social life of the American type He is likely to join the *Komsomol* and the students' trade union and cannot escape a dose of Marxism and Leninism Some poor students have perception enough to join the *Komsomol* as an insurance for passing grades, the secretary will bring the necessary pressure on any reluctant professor The student knows nothing of fraternities or alumni associations If married, he will live in special quarters for himself and the family

When the school year ends in June, the trade union will send him to work in a factory, a farm, or with some scientific enterprise, and for the purpose, it consults the heads of the university The government pays expenses, an instructor goes with each group if possible The enterprise, factory, etc , may appoint a specialist to take charge of the student group and instruct them, and it often pays wages The students learn the processes of production and make a report on them to their professors in the university In addition, they get from two to four week's free time, to spend at the university's vacation home or some other resort Before a student is graduated, an official will

[8] *Ibid*, October 23, 1946, pp 15-16, May 28, 1947, p 7, May 27, 1949, p 333 Moscow University is called Lomonosov State University, from the founder, Mikhail Lomonosov *Ibid*, September 24, 1947, p 41

approach him and lay before him a choice of positions for a person with his qualifications He will go before a board and with its assent or at its suggestion will select his job

The courses in humanities are organized much like those of the west, except that exams tend to be oral and frequent One criticism is that they cover too much ground and leave the student with a sketchy knowledge Latin was not taught in the secondary schools until lately and only in a few, but it and Greek appear duly in the universities A marked feature of Russian university life is the presence of older men and women who have taken courses in adult education and passed the entrance examinations, and wish to gain more knowledge or qualify themselves for some profession Before 1917, Moscow had twenty higher schools and 1500 professors, now it has eighty schools and 12,000 instructors The student body totals 127,000 of over seventy nationalities [9]

The University of Leningrad has thirteen departments, 8000 students, 280 professors, and 1200 assistants, classed in our account as scientific workers It has twelve research institutes, 200 laboratories, an observatory, a botanical garden, and a library with 3,500,000 volumes and reading rooms with seating accommodation for over 900 persons In 1948, 900 students were graduated and 1550 entered Seventy percent of the students earned good and excellent records in their work As in other institutions, there are cash stipends and scholarship allowances There are five dormitories for students whose homes are out of the city and a rest home on the Gulf of Finland During most of the vacation the students did assigned field and factory work but had three or four weeks clear Fourteen hundred spent the rest period in the rest home in 1948, over 700 went to the Crimea and the Caucasus

Athletics are of the ordinary types, but yachting and rowing are favored, the river Neva and the Gulf being so convenient The university has a theater and sees performances by professionals of Moscow and Leningrad from time to time The students publish a paper three times a week [10]

Life at Leningrad University is described from the point of view of the faculty by an escaped member who assumes the name Buligin He taught engineering there and in institutes of advanced learning in the city for twenty years As expert in a technical subject, he might expect little interference from the government on the score of his opinions Yet he was in constant if not great trouble with the party secretary and the trade union Once, having seen a set of companion statues of Lenin and Stalin, he dropped a careless remark about a memorial Called into the office of the party secretary, he learned that he must not say anything to imply that Stalin was dead Later advice from

[9] *Ibid*, August 25, 1948, p 505, March 25, 1949, pp 182-184 John Lawrence, *Life in Russia* (London, 1947), pp 104-106 D Buligin (pseud), "I Was a 'Free' Russian," *American Mercury*, August, 1947, pp 163-171

[10] *Bulletin*, March 11, 1949, pp 163-164

the same source was to quote Communist propaganda and praise Stalin in the middle of an engineering lecture On one occasion, he delivered a set of lectures on technical advances in foreign lands and received pressing advice to make Soviet advances at least equal to the others The editor of the faculty bulletin asked Buligin to write an article on the unsocial behavior of a colleague Buligin conferred with the colleague and made up a piece with his concurrence The editor considered it weak and changed it into a strong attack Buligin did little visiting with his colleagues in the evenings, for fear of eavesdropping and perversion of remarks Another professor passed some student theses 100-150 pages long without reading them carefully They were not too much for the M V D, which studied them, found deviations from the party line, and duly reported the professor Buligin, whose subject was technical, was not a party man Professors of social studies had to belong to the party and echo its propaganda

Another organization to reckon with was the faculty trade union It tested the members on their knowledge of the official history of the party and arranged social work, like addresses to patriotic meetings urging the speakers to praise the work of the party in their fields and to conclude with a rousing tribute to Stalin Another trial was to be driven to propaganda plays It was not enough merely to buy tickets, personal attendance was imperative and vacancies in the purchased seats were duly noted by the M V D The unions of faculty and students had watch committees, in theory elected The procedure was presentation of a slate by a party man If someone else were nominated, a party man would say that he had not yet the experience or knowledge required for the place Promptly the nominee would withdraw and leave the field clear for the slate, which was duly elected Promotion goes by party influence, and Buligin has a story of a melodramatic rivalry between two men, ending in a "frame-up" of one with a girl student in his arms This portraiture of government in universities will please few faculty members out of Russia, and probably few in it [11]

The latest university is at Stalinabad in the Tajikistan union republic, the eighth institute of higher learning in this republic in Soviet times In the time of the Emir of Bokhara, no woman could read or write, only one man out of two hundred, and he in Arabic There was practically no written native language Now there is the university with state stipends and government promises of funds for a museum, botanical garden, astronomical observatory, etc

The correspondence school is a familiar institution in Russia The Moscow Correspondence Polytechnical Institute has 6300 students, forty-seven full professors, hundreds of assistants and instructors Other correspondence colleges and departments of institutions have 200,000 students in all All such students have a three-week vacation with pay to take their examinations over

[11] D Buligin, "Life of a Soviet Professor," *American Mercury*, March, 1948

and above their regular holiday from work The quality of instruction an outsider cannot judge [12]

Russia has a great apparatus of education open to all and has made it part of her career for talents Incidentally, she draws the intellectual men and women into state service At present, the apparatus teaches facts, techniques, and attitudes, it does not teach people to think for themselves, in fact severely represses any such effort It is not education at all in the true sense of the word In the last two years the censorship has become more rigid with the purges of literary men, scientists, and philosophers, and it cannot be welcome to any who value learning for its own sake, of whom there must be many in Soviet Russia Yet the system of schools could give a true education overnight if the control were withdrawn, and the world must wait on events [13]

## Anglo-American School

The best description of a Soviet school in English is by Deana Levin, who taught at the Anglo-American school in Moscow in the late 1930's This school is in all respects part of the Moscow system but is conducted in the English language for the children of English-speaking residents and for Russian children who wish to learn English directly The staff were partly from the English-speaking world, partly Russians who knew English well enough to use it as the medium of communication Many persons and organizations had a hand in the school the Moscow department or board of education, the inspector, the pedagogical center, the principal, the assistant or supervisor, the teachers' trade union, the Young Pioneers, the parents' association, the school soviet, the class meetings of pupils, not to mention the teachers themselves Yet too many cooks did not spoil the broth but by her account made it acceptable to everyone

The grades up to seven had forty-two children, those above (eight, nine, ten) had thirty If more than the quota were put into a room, the teacher had

[12] *Bulletin*, October 20, 1948, p 650, November 3, 1948, p 686

[13] One objective of ambition among the faculties is the Stalin prize, given to Stalin laureates from 1939 The prize has two classes for scientific work and three for inventions and improvements in production There are two first and two second prizes in each branch of science, worth 200,000 and 100,000 rubles respectively, three in inventions and improvements, of 150,000, 100,000, and 50,000 rubles respectively The awards are given by a committee attached to the Council of Ministers

Masha Scott has a description of her life at the Mendeljeff Institute, Moscow, in the middle 1930's Principal, staff, students, janitorial personnel lived in the same buildings and ate in the same room The good students helped the poor ones for the honor of the class The trade union, inclusive of all the groups mentioned, managed recreation, theater tickets, excursions, vacation work, and the holiday A class paper came out once a month, discussing chiefly how to study better The institute is primarily for chemistry, Masha took chemistry, mathematics, history of Russia, Leninism, first aid, and military work Her list is probably incomplete Pearl Buck, *Talk About Russia*, (New York, 1945), pp 71-76

extra pay In the first four classes the teacher took all the subjects and taught 100 hours a week, in the upper classes, specialists taught their own subjects for seventy-five hours a week Languages and mathematics, involving paper work continually, brought extra pay, and the teacher might get 400 to 1000 rubles a month Now the maximum is about 2000 rubles Pupils, teachers, administrative officers called each other comrade

All were on edge to do well and take their part in socialist society The most obvious evidence of this was much public and mutual examination of faults The teachers discussed each others shortcomings at staff meetings, in the staff wall-paper and at meetings with the pupils The pupils reported each others' deficiencies to the teacher as well as to their meetings, the tattletale being a public servant The principal called in parents, reprimanded them if necessary, and threatened to report the father to the trade union This fault-finding does not lead to a kind of civil war, as it would in the west, it is done not from jealousy or love of bickering but as a means of mutual help to improvement and, by our account, causes no ill feeling

The pupils as individuals and classes engaged in socialist competition in discipline, cleanliness, and study Two classes illustrated the rivalry by the progress of paper trains racing from Turkestan to Siberia Teacher and class president kept record books of behavior and noted the disturbers, for reports to class meetings, to the school soviet, and to parents in the hope of correction Each child had a "diary" or workbook for homework, record of grades and conduct, and interchange of notes between teacher and parents about his progress Pupils signed agreements with each other to maintain good and excellent grades and to carry out social work, i e , some kind of community effort They helped each other, the good ones coached the poor ones and checked their homework There was one gymnasium lesson a week After school there were circles for hobbies, e g , drama, art, literature, athletics, theaters which cater to children

The Pioneer organization helped a good deal, led by an attractive *Komsomolka* named Sonia, eighteen, who had learned English in the *technicum* for foreign languages A candidate, aged ten, needed to be a good pupil and to undertake some social work The Pioneers were in units of ten and troops of thirty, each unit and troop elected a leader, each troop a soviet They elected an editor for the wall-paper and a cultural worker for their higher recreations At meetings they considered means to improve grades for everyone and discussed personal failings at length They organized play after school or trips to institutions or to films and did everything they could to assist the operation of the school

Teachers, principals, supervisors, parents, members of the board visited classes often, either to learn or to suggest better methods It was rare to find a class without some stranger in the back as spectator of proceedings Teachers visited homes of pupils who were doing badly to find whether condi-

tions there caused the failure, and gave the requisite advice to the parents The principal reported regularly to the parents' meeting on the work of the school There was a pedagogical center in the urban district for exhibits and advice to teachers, administrators, parents, and courses in methods for deficient teachers At the end of every term there was a district conference of all the educational workers to review the work and a bout of criticism of everybody by everybody, even to the members and the head of the board of education

Marks were very poor, poor, fair, good, excellent, the first two being below passing Before the examination the teachers called a meeting of parents to show them how to cooperate in setting the home stage for success Nervous pupils were exempted by doctor's orders The syllabus was typed by themes and posted on the wall for all to know On examination day the themes were cut out to serve as questions Each child drew one at random, considered four or five minutes, and made an oral answer to the teacher and another examiner This might be the principal, the supervisor, another teacher, or a member of the board The teacher and other examiner agreed on the mark to be given Languages and mathematics, of course, required written examinations

Health was a matter for careful attention in the Anglo-American school A woman doctor visited the school every morning, checked the rooms for dust and the toilets and dining room for sanitation, and made a report for the principal to read and sign The school had a clinic and a nurse for minor ailments Each class elected two *sanitars* to see that the room was aired between classes, the floor and desks kept neat and clean Two first-aid circles under charge of doctor and nurse studied the subject and issued a monthly bulletin on hygiene with posters or drawings from the health department to drive the lessons home All these authorities discouraged smoking and drinking One case of scarlet fever was discovered and that evening the local board of health disinfected the school Delicate children were watched and sent to sanatoriums like Anapa on the Black Sea, which is a special resort for children in less than good health Each school had a summer camp, the Anglo-American school had one on the river Oka, managed by the Pioneers on a strict schedule with the aid of a doctor, a nurse, a camp matron The parents paid a little, the board of education had most of the expense The pupils lived in wooden buildings, not tents, which were not favored by the medical authorities In vacation time the schools became clubs with indoor and outdoor games and teachers taking turns to keep the children usefully employed and off the street Miss Levin found the children enthusiastic and easily controlled and considered her experience at the school both pleasant and profitable

The teachers' trade union was active in good work It had a committee of three in this school—chairman, secretary, cultural worker The last person

provided classes in Russian and English for teachers in need of either, attended to recreation, films, dramas, excursions for the staff, saw that they read the papers and used the libraries The committee met twice a month, it urged all members to do some type of social work, e g , manage the wall-paper, collect dues, give language lessons, help the librarian The teachers would pledge each other to be ready for all lessons, coach backward pupils, do all in their power to eliminate poor marks (except through undue leniency, one presumes) A committee member would check performances of these undertakings, keep charts on each teacher, examine the classrooms after hours to see that all was clean and in order, that blackboards were clear and inkwells full, and would have a friendly eye on the janitor staff, who were as much members of the union as the principal, and as eager to help the school as anyone

The teachers' union had district clubs and a fine all-Moscow clubhouse with normal equipment, a restaurant, and an auditorium for meetings, films, and dancing Here the quarterly general meeting of the trade union took place, to finish with a dinner and a dance The committee judged disputes between the principal and a teacher and usually tried conciliation If it failed, the affair might go to the district committee and board of education At the end of the year, the chairman of the board held a mass meeting of the teachers and rewarded sixty of the best teachers with watches, furniture, money up to 500 rubles, which was Deana Levin's share [14]

## *PRESS AND LIBRARIES*

The Soviet regime has witnessed a remarkable expansion of publications of all sorts In 1913 there were 859 newspapers in Russia, now there are 7163 with a circulation of 31,000,000 Many of these are in local language, e g , over 800 in Ukrainian There are newspapers in eighty languages, twenty of which were not written before 1917 Factories, state farms, schools, scientific institutions, service units had more than 4500 papers in 1940, excluding wall-papers

Books have multiplied correspondingly In the Soviet period, 11,000,000,000 books carrying 873,000 titles were published in 119 languages, in 1916 books existed in only forty-nine languages The *History of the Communist Party of the Soviet Union* (B, a short course), by Joseph Stalin, has published over 33,500,000 copies and is the all-time Soviet best seller The same man's book *On the Great Patriotic War of the Soviet Union* shows 16,000,000 copies in fifty-eight languages It may be, however, that this author has an unfair advantage in the market over others Over 1,561,000,000 schoolbooks have been printed in the last ten years, a third of them in the various national languages Interest in topics has changed, one writer regrets that in 1901 there were only 338 publications on agriculture and 1222 on mystical books

[14] D Levin, *Children in Soviet Russia* (London, 1942)

to poison the mind of the people and divert their attention from facts This emphasis has been altered, during the last thirty years 174,500,000 books have appeared on natural history and mathematics There used to be one magazine on physics with 200 subscribers, now there are five large magazines on the subject Technical publications show 156,000 titles and 713,000,000 copies in thirty years It is natural to inquire whether all this quantity contains quality Even allowing for the floods of propaganda, we may safely say that Russians read and study more than in czarist times

Fiction is far from neglected, it has nearly 1,300,000,000 copies of 70,450 works Maxim Gorki was able to sell a million copies of his books before 1917, 44,000,000 in the Soviet period Pushkin's works have sold to the extent of 36,000,000 copies since 1917, as against 9,000,000 before that year Of books for children there have been over 661,000,000 copies in twenty years under 26,000 titles There are over 1400 magazines in Russian, 350 in other languages Foreign books are far from neglected, since 1918 there have been a total of 167,000,000 copies of books of fine literature from other countries Shakespeare has had 1,500,000 copies in twenty languages, Victor Hugo, less handicapped by feudal terminology, has had 4,000,000 copies in forty-one languages

Russian newspapers have quite a different appearance and content from those of the English-speaking world There are no features, comic strips, fashion notes, or articles on the intimate lives of film stars, and few advertisements—and these in a matter-of-fact style *Pravda*, the official publication of the Communist party, and *Isvestiya*, the government organ, are the best-known newspapers On the first page of *Pravda*, September 23, 1948, there are telegrams to Stalin from collective farmers of various areas to show how far they are exceeding their quotas of grain for the state, news of apartment houses in Leningrad and fish in the Caspian Sea, and an article about an Armenian writer Another article criticizes officials of the Voronezh region The Minister of the Food Industry in the U S S R (V Zotov) has an article on "Vital Problems of the Food Industry" Economics is the spectacular topic, foreign news is usually relegated to the back page [15]

The press has cultivated particularly the letter column *Pravda* had 160,000 letters in 1948, papers in capitals of regions get 10,000 to 12,000 letters annually In *Pravda, September* 23, 1948, there is a letter from an employee of Saratov University about the construction of a new wing for the biological building, suggesting ways to save time on it, another wanting more texts in the Chuvash language, and a third from the chief of the Astrakhan river port who wants changes in the transit shipments of cargoes

Every paper has non-staff volunteer workers among its readers, called worker or rural correspondents *Kurskaia Pravda* in the town of Kursk has 260 such correspondents who write on agriculture alone These eager souls

[15] *Bulletin*, May 12, 1948, pp 287-290

write mostly about their work, their successes or failures, and in the latter case locate the blame and suggest improvements It is common to criticize bureaucracy and to keep the civil servants on their toes The papers get far too many letters and articles to print, and they may print a summary only or send the letter to the appropriate agency of government for whatever investigation is necessary

The specialty of the Soviet regime is the wall-paper, got out by a group of elected editors Factories, schools, prisons, commercial institutions, shops, farms develop these little papers in great numbers Five hundred people recently contributed to eleven issues of *Rolling Mill*, a wall-paper in the Andreiev Mills in Taganrog These amateur typewritten publications may develop literary talent and do ventilate grievances and stimulate interest in life and work about the factory or other institution [16]

The library service is an important part of Russia's educational projects In 1946 there were 80,000 public libraries in the country Of these, 1581 were in Moscow, including the Lenin Library with 10,000,000 books, the chief bibliographical center of the Soviet Union The Ministry of Education had 418 in Moscow, the trade unions 381, science organizations 127, technical institutes 179, and urban districts 175 The district libraries had 886 libraries and over 3,500,000 books The librarians were busy persons, they organized lectures, literary reviews, book exhibitions, readers' conferences, and talks by writers and paid special attention to facilities for a reader to study a topic Libraries of course are everywhere on ships, in depots of the armed forces, in factories and cooperatives, on farms, in schools, and wherever people congregate No serious argument against communism will find its way into the public libraries, but the Russian may still do a lot of reading when he is inclined [17]

The censorship is by *Glavlit*, an office for control of all kinds of publications, pictures, photographs, the radio, lectures, and exhibitions It censors material twice, before and after typesetting It intends not merely to check anything of an anti-Soviet nature, but to permit publication only of what will help the government, and it takes instructions from the central committee of the Communist party It has no direct control over the publications of the party, the Academy of Science, and *Isvestiya*, but party members will take care of them [18]

## *HEALTH*

Russia has had state medicine since the Revolution The Minister of Health of the U S S R manages the system to serve the country as a whole He has special hospitals, sanatoriums, and rest homes and provides equipment for

[16] *Ibid*, January 14, 1949, p 26
[17] *Ibid*, July 24, 1946, pp 20-21, July 9, 1947, pp 10-11, for the Lenin Library
[18] V Gsovski, *Soviet Civil Law* (Ann Arbor, 1948), pp 65-66

health activities He has an advisory board or collegium for administration, including a representative of the medical workers' union, and a scientific council for medical matters The union republics have ministers and health services and do all this on a smaller scale Territories and regions have health administrations and inspectors, local soviets have sections and departments for hospitals, clinics, health education, and preventive medicine

The government pays surgeons, doctors, and dentists and undertakes the expense of hospitals, clinics, laboratories, and first-aid stations, sharing with the organs of local government The patient pays nothing for medical, surgical, dental work of any kind directly, although of course he pays through taxes He pays for drugs, handled by pharmacists appointed and salaried by government Student doctors finish the ten-year school and take a five-year course in medical school, of which there were fifty-one in 1941, with everything paid On graduation, they serve three years at least in country districts and get experience on the physiques of the country people, presumed to be tough They may then apply for a job in the city but must await permission They may return from practice to do postgraduate work and improve their knowledge and abilities

The medical assistant is still indispensable, and there are a thousand schools to teach *feldshers,* midwives, nurses The *feldsher* has had seven years at school and three in a *technicum* and may do minor surgery and inoculation The midwives get two- to three-year courses, organize village committees and clinics for maternity and child welfare, and do delivery in their areas The nurse has had seven years in school and two years in a *technicum* For the dentists there were twelve schools in 1945 with four- and five-year courses Their assistants come from *technicums* with three-year courses Pharmaceutical institutes numbered nine in 1945 and had *technicums* to provide junior workers The Red Cross and Red Crescent (for Moslem areas) are government organizations and have hospitals, sanatoriums, rest homes, ambulances, equipment, planes, and personnel They take charge in cases of general disaster or local emergency Doctors and assistants of all sorts numbered 950,000 in 1949

The ministries of health in theory place the doctors in areas planned to do the population the most good The citizens in one area go first to a polyclinic for diagnosis and treatment short of hospitalization, and with its sanction, to hospital The polyclinic ought to have a doctor, a dentist, and a nurse at least If a patient prefers the services of a doctor out of his area, he may go there and have them at a fee, which is a relic of private practice There is not much of this cross-practice in the country, but a great deal in the cities, where the famous specialists live and draw patients from all over Russia Many women are in the profession, especially gynecologists and child specialists, and seem to have the maternity hospitals practically to themselves Dentists seem to specialize in stainless steel dentures, which no

doubt serve the purpose Doctors and dentists are supposed to work only five to six hours a day and to get four weeks' vacation but by all accounts work much harder than the regulations indicate

One problem has been to give the rural areas adequate attention There are over 15,000 rural medical districts in the Soviet Union with 26,300 doctors in attendance and over 46,000 centers for disease prevention and medical aid in the villages Commonly three or four villages are in one area, the staff includes a doctor, a dentist, and eight or nine helpers including nurses, midwives, and pharmacists There may be a pharmacy, a small hospital with fifteen or twenty beds, and a maternity home, there is occasionally a clinical laboratory with x-ray equipment Regional centers normally have good equipment and well-known doctors in attendance, other towns do the best they can There is often an air ambulance service, to carry a doctor to a patient in urgent need The fact that only 26,300 doctors wait on the rural population, still the majority, suggests that the Soviet Union has not overcome the tendency of doctors to mass in the urban centers which was supposed to be a vice of capitalism

A good instance of the improvement of medical service is in Buryat-Mongolia in the far east The country had three doctors in 1913, three hospitals with sixty beds, and thirty-three first-aid stations Now there are a hundred hospitals in the area, 170 surgeries, forty-five maternity homes, fifty public nurseries, the number of doctors is not stated [19]

The quality of the service demands attention John Scott found the hospital in Magnitogorsk in the 1930's a set of twenty barracks, many without steam heat or water on tap or adequate disposal facilities, one building at least using a barrel They were hot in summer, cold in winter, served mediocre food There were departments for mental cases, for venereal diseases and tuberculosis patients The doctors and nurses were amateurs, the operating staff good, they worked up to fifteen hours a day and earned 4000 rubles a month A nineteen-year-old girl with a two-year rush course in dentistry gave him a painful experience, a thirty-five-year-old dentist did an extraction for him and observed the elementary rules of sterility The town spent a quarter of its budget on health The board of health had eighteen clinics and a laboratory on hygiene in addition to the first-aid clinics in the plants The people could not believe that in the United States there were sick without care and doctors without patients No doubt Magnitogorsk has improved its hospitals since that time, and all who have had experience of the Moscow hospitals say they are good But by all accounts the health service of Russia needs expansion, there are not nearly enough doctors, hospitals, medical institutions of all kinds [20]

Preventive medicine is an object of great attention Vaccination is com-

[19] *Bulletin*, November 17, 1948, pp 711-712

[20] John Scott, *Behind the Urals* (Boston, 1942), pp 128-130, 219-222

pulsory One hundred million inoculations are given annually, free of charge, against diseases other than smallpox The ministries of health publish literature, and give demonstrations, displays, and lectures in clubs, reading rooms, and medical institutions to teach people how to look after themselves In 1913 there were 23,000 doctors in Russia, now there are 180,000 The ministries encourage athletics and had helped to form 60,000 sport circles or clubs with 10,000,000 members before the war These clubs practice rowing, skiing, skating, and volleyball, which is a favorite Tennis is not so popular Soccer is the popular game for spectators

Maternity and child welfare have played a large part in the health program In 1949 there were 8000 maternity clinics or consultation centers for the purpose, with doctors and nurses and the responsibility for all children under two years in the area Pregnant women report there and have the care of specialists, who may order transfer to light work Two months before the event, the nurse comes to the home to see whether the needed equipment is there A patient has leave with full pay from thirty-five days before the estimated time of delivery to forty-two days after it, and longer if necessary The mother gets normal pay from the social insurance fund, not the plant, and may have an allowance for the layette and for extra food

When the mother returns from hospital with the baby, the nurse calls daily until the navel is healed, and the doctor comes once to see that all is well The baby goes to the center for weight, vaccination, and inoculation and is likely to spend its days in the nursery attached to the mother's place of work Infants are commonly wrapped tightly all about, which western doctors do not favor, but this may be a small matter The mother has time off for nursing, and leave of absence if a child under two is ill at home

At each of the centers is a dairy-kitchen to provide fresh milk foods, creams, curds, rice and milk liquids, vitamin jellies, etc Women whose wages are low, mothers of large families, and unmarried mothers get these things free of charge These measures have reduced child mortality greatly, to 3 5 percent instead of 14 percent for children under one year of age

On the birth of the third child the mother gets an allowance of 200 rubles a month, of the fourth, 650 rubles as a grant above the allowance, which lasts from the child's second to its fifth year Additional children are worth more money in the same way An unmarried mother gets the allowance for twelve years Managements of enterprises, urged by trade unions, often assist unmarried mothers and mothers of large families out of their welfare funds An unmarried mother may put her baby in a special home, see him and remove him when she wants The aid to mothers and children in 1947 cost 4,255,000,000 rubles, almost a quarter of the budget for Soviet health There are honors for mothers the order of motherhood glory, the motherhood medal, the title of mother heroine, which has gone to nearly 30,000 women [21]

[21] *Bulletin*, June 10, 1949, pp 358-360, July 29, 1949, pp 452-454

## *CHURCHES*

In 1936 the churches had some relief from the repression The new constitution made priests citizens with full rights to lodging, rations, and education for their children Texts in schools, films, and dramas abandoned the theme that the introduction of Christianity was a disaster to Russia and declared that it was an advance in civilization and a benefit The seven-day week returned in 1940 and permitted workers to attend church on Sunday Christmas trees and cards were again legal, and celebrations of Christmas and Easter occurred freely Priests found points of agreement between Christianity and communism, one or two were elected to local soviets The Godless society began to languish, made a last assault on the church during the purge, 1937-1938, sickened again, and passed away in 1941 from the cessation of state subsidies

The Orthodox Church saw a great opportunity in the war On the day of the attack by the Germans, Acting Patriarch Sergei urged churchmen to defend the country, excommunicated all who had taken the part of the enemy, and began to play a notably patriotic role He had some unintended help from the German Roman Catholic bishops who assembled at Fulda and urged their priests to support Hitler's crusade against an atheist state Hitler appeared as Rome's champion, doubly to be resisted Orthodox churchmen contributed 400,000,000 rubles to the defense of the country, most of which went to hospitals and homes for orphans and disabled veterans A few churchmen in the occupied areas, mindful of the repression, took sides with Hitler and drew the strongest denunciation from the patriarch

The government was not ungrateful for this support and permitted the church to publicize its great patriotic record from the time of Alexander Nevski to that of the invasion of 1812 In 1942 Stalin appointed Metropolitan Nikolai of Kiev to a commission to investigate German atrocities, of which he found plenty On November 7, 1942, the church leaders were allowed to use the columns of *Pravda* to hail Stalin as God-chosen leader of Russia, perhaps with a mental reservation about God's mysterious ways The time was ripe for a formal rapprochement between church and state [22]

In September, 1943, Stalin met the three church leaders, Nikolai of Kiev, Alexei of Leningrad, Sergei of Moscow He promised financial aid, schools for priests, paper for church publications, leave to elect a patriarch and to reestablish religious houses, the German Embassy as the patriarch's home, and permission for the Church of England to send a delegate to the electing synod Archbishop Cyril Garbett of York accordingly attended, and the synod elected Sergei as full and lawful patriarch of the Orthodox Church in

[22] *Time*, July 7, 1941, p 44 D J Dallin, *The Real Soviet Russia* (New Haven, 1947) p 40 G G Karpov, "The Russian Orthodox Church," *Bulletin*, October 9, 1946, pp 3-5

Russia When he died shortly afterwards, a fresh synod attended by high prelates from nearly all the Orthodox countries elected Alexei, metropolitan of Leningrad, as patriarch in his place

It seemed advisable to organize relations between church and state, and in September, 1943, the government created the Council for the Affairs of the Russian Orthodox Church with Georgi Karpov chairman This new Holy Synod maintains contact between the Council of Ministers and the Patriarch of Moscow and All-Russia It does not interfere with church doctrine, practice, or organization It ascertains that laws and decrees concerning the church are properly applied and assists the business of churches with the government Karpov was formerly with the G P U , he has a staff of agents over the country for church business

In the new conditions, the government has given the church large financial help to rebuild the edifices destroyed in the invasion The union republics pay salaries to the priests, and by all accounts on a generous scale—from 3000 rubles a month in a village to 10,000 in a town and 40,000 for a bishop Some religious houses have revived, notably the Lavra at Kiev, whose sixty monks have high respect from police and party as well as people Easter services are packed from dawn to dark Christmas trees abound in homes, schools, trade-union clubs Parishes elect their boards for three years without let or hindrance The government has assisted the church in pressing the Uniats in the annexed and satellite territories back into the Orthodox fold [28]

Nevertheless the injuries of the period of repression 1918-1936 are not to be repaired in a moment Only 15 percent of Soviet youth are believers, said Karpov in 1947 No Communist may attend church and the *Komsomols* in their congress of 1949 heard warnings against religion, the party line in science and philosophy is materialist The restoration of the church will be the work of years

At present churches have the right to rent or erect what buildings they need and to manufacture candles and vestments, the government supplying the material The Orthodox Church has ecclesiastical seminaries in Leningrad and Moscow with five-year courses of study and ten seminaries, all free for the student It publishes the monthly *Journal of the Moscow Patriarchate* as well as church calendars, books, and pamphlets It has 22,000 parishes and eighty-nine monasteries and convents It held a congress in July, 1948, in honor of the establishment of a native Russian metropolitanate in 1448, attended by representatives of most Orthodox churches of the world, including heads of missions in China and Holland The opening service was in Yelokhovsky Patriarchal Cathedral, and Alexei addressed the gathering on the significance of the date and the service of the church to Russia The principal

[28] John Fischer, *Why They Behave Like Russians* (New York, 1947), p 128 *Time*, September 23, 1946, statement by the Reverend R W Sockman, who had been in Moscow

celebrations were in Sokolniki Cathedral, the patriarch, Karpov, and the heads of delegations all made speeches After ten days of meetings and services and a sacred concert the delegates attended a solemn liturgy in Troitse Sergievo Monastery on July 18, the conclusion of the congress [24]

In Russia an officially atheist government is supporting the Orthodox Church and halting between two opinions This state of suspension cannot endure indefinitely, but in the meantime it keeps the able men and women of the country, concentrated in the Communist party, out of the church It seems likely that the atheism will gradually evaporate, the first step would be to omit the requirement of unbelief for members of the party

The Commission for the Sects takes care of the affairs of the non-Orthodox groups, Roman Catholics, Protestants, Moslems, Jews, etc By itself it gives them no financial aid but allows the republics, acting through councils, to provide this The sects may hold buildings for religious use and conduct seminaries for their clergy They may have a press but not keep schools to compete with the public schools, nor may they use the radio

Old Russia had large groups of Roman Catholics in Poland, Lithuania, and the western Ukraine, but lost most of them in 1917, and until 1940 the Soviet Union had few of this faith In 1944-1945 it recovered the Baltic states, the western Ukraine and White Russia and so had appreciable numbers of Roman Catholics within its limits again The center is Lithuania, and here are two archbishops and six bishops as in pre-Soviet times, 711 churches, 1332 clergy (1947) One hundred and fifty candidates for the priesthood were in Kaunas Seminary in 1948, and forty were ordained in October of that year

The priests conduct services as usual and give religious instruction to children out of school, they have salaries and pay income tax If they want anything of government, they go to the council for religious affairs under the council of ministers of the Lithuanian Soviet Republic, which by our story gives every consideration to the requests There are on Soviet territory thirty-one religious communities—Jesuits, Franciscans, etc Some have land and are classed as collectives, some handicrafts and shops and are put down as cooperatives Nuns nurse and wear their garb without hindrance There are an archbishop and two bishops in Latvia But the Vatican considers this toleration insufficient and is in an era of bad relations with Russia [25]

The Baptists report more than 3000 churches in the U S S R, a preacher in nearly every region and district, and an All-Union Baptist Council in

[24] *Bulletin*, July 28, 1948, pp 431-432

[25] Unsigned article, "Catholics in the U S S R," in *ibid*, June 18, 1947, p 13 Josas Bulota, "Catholics in Soviet Lithuania Freely Practice Faith," in *ibid*, February 25, 1949, p 131, an interview with Father Kasimir Kulakas "Catholicism in Latvia," in *ibid*, October 22, 1947, p 24

Moscow They publish a magazine, *Bratski Vestnik*, which is sold in every city Even the Old Believers continue their practices [26]

In the new policy toward religion, the Moslems were not forgotten There are about 30,000,000 Moslems in the Soviet Union, chiefly in central Asia and the Caucasus, and they are organized by four regions, central Asia and Kazakstan, the Tatar and Bashkir autonomous republics, the north Caucasus and Transcaucasia In each region, a congress of Moslems elects boards and a leader The boards nominate imams, who govern communities of the faithful, they keep up the mosques and build new, maintain the tombs and shrines, and have schools for the staffs of the mosques They also publish literature The funds come from the voluntary contributions of the faithful and support religious universities also in Bakhara and Samarkand The government helps to keep up the ancient monuments and places the best under the Commission for the Preservation of National Monuments, e g , the buildings of the time of Timur It facilitates pilgrimages to Mecca and has placed a plane at the service of those who wish to go, thereby greatly easing the discharge of this religious duty [27]

[26] *Bulletin*, November 19, 1947, p 33, September 10, 1947
[27] *Ibid*, August 14, 1946, pp 19-20

# Chapter 44

# *Conclusion*

SOVIET RUSSIA is the world's most conspicuous example of despotism, combining primitive callousness, Oriental cunning and brutality, and the calculated ruthlessness of Marxian infallibility It has slaughtered human beings by the million and let other millions die of starvation and exposure It tolerates no ideas but its own and imposes penalties on independent thought not only in politics but in science, literature, and art In international society it is antisocial, practicing deception and abuse on other nations, hurling maledictions and predictions of collapse That all the while it professes to work for democracy and humanity seems merely to add hypocrisy to its numerous sins

Nevertheless, the very profession is not without influence The Communists cannot indefinitely save lives by medicine and sacrifice them by the firing squad, make existence secure by work for everyone and insecure by the activity of the secret police, teach people to read and forbid them to think, insist on the forms of democracy and the practice of absolutism, preach proletarian internationalism and rely on Russian patriotism, combine atheism and support of churches The contradictions are too obvious to be forever buried in a mass of propaganda At some point the Communists must make their professions fit their acts by modifying one or the other

Their theory itself requires a loosening of control when it will be safe to do so They have taken some tentative steps in this direction, they have extended legal equality to all occupational groups, they have ceased to attack the Orthodox Church and are supporting it, they permit a trace of opposition—of a safe kind—in local elections A change of policy is contemplated in theory and faintly sanctioned in practice, but may well be hastened by events A relaxation of control seems likely, either gradually by plan or suddenly by a convulsion, and will bring Russia and the Western world closer to each other The westerners have political democracy and practice some socialism, the Russians have socialism and the forms of democracy Neither group regards democracy and socialism as diametrically opposed, both are trying to make them compatible with each other The question is one of more or less Were Communist expansionism and rigidity to undergo a modification, this would be obvious immediately Less theory and more worldly

spirit in Russia would suffice The world may look forward with some reason to a relaxation of the present tension and the eventual assumption by the great Russian nation of a less inconvenient place in world society There is little doubt from which quarter the initiative in the change will come

The Communists repeat endlessly that Russia has no classes, or two, the workers and peasants, who are practically one since the five-year plans The repetition indicates a lack of conviction and is indeed mere propaganda There are four distinct classes in Russia the middle class or intelligentsia, the workers, the peasants, and the forced labor class A recent estimate gives the first class ten millions of employed persons, the second twenty, of whom eight are industrial, the third forty millions, and the fourth somewhere between five millions and twenty These are estimates only but suffice for our present purpose of remarking the importance of the middle class, practically all government employees They are the highest class in Russia, having no landed aristocrats or industrial and commercial magnates over them In the beginning of the Soviet regime they were the middle and upper classes of the czarist period who did not emigrate, and accepted the service of government as the only thing they could do They took recruits from their own families and from youthful outsiders of the Soviet regime The latter element dominates now and having been brought up under communism ought to accept it whole-heartedly if official views are correct

That they do not is indicated from the attitude of Soviet leaders, who purge, denounce, and cajole the middle class, and in fact do not trust it but cannot get along without it The class expands beyond reason, it multiplies white-collar jobs in industry and overloads the offices, as every close observer has said The leaders threaten and order, to no purpose The middle class is now the dominant element in the social life of the country, though not in politics, and makes the fact most obvious in literature and the films, once devoted to the industrial worker, now concerned chiefly with employees of government This group has the comforts of life in Russia The top set, composed of officials, artists, writers, engineers, technicians—about 25,000 persons—have the choice of cars, housing, travel and resort accommodation, servants, theater seats, the rest have some of these things some of the time

This class have at bottom the same instincts as their fellows in other countries, they are tired of terror and turmoil, alarms, restrictions, censorship They care little for the collective farms, despise the Comintern and its successor the Cominform, dislike expansionism They want peace and rest, a government by law, fellowship with the west, removal of remaining bars against religion They are not likely to attempt violent action in face of the coercive apparatus of the state, they wait for a chance to obtain their wants in the inevitable shift of government personnel This is the class on which politics are likely to turn in the next fifty years [1]

[1] D J Dallin, *op cit*, chap 8

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Current work of the Soviet government is to be followed in the dispatches from Moscow in the New York papers, e g, by Eddy Gilmore, Brooks Atkinson, and Harrison Salisbury, and in the *U S S R Information Bulletin*, Soviet Embassy, Washington, which the writer has used constantly, trusting it for the workings as distinct from the results of Soviet government Comments of the Soviet press are found in *Soviet Press Translations*, issued by the Far Eastern and Russian Institute, University of Washington, Seattle, and by *Current Digest* of the Soviet Press, 1219 Sixteenth Street, N W, Washington, D C

The Communist agencies in the United States have many publications and some useful information, if only to reveal the party line The Four Continent Book Corporation, 38 West 58th Street, New York, has books, magazines, newspapers from the Soviet Union like the recently resumed monthly, *U S S R in Construction* It has *Moscow News*, a biweekly, *New Times*, a weekly, *Soviet Literature*, a monthly, *Soviet Woman*, bimonthly *Soviet Russia Today*, 114 East 32nd Street, New York, is inferior to these and heavy propaganda The *Daily Worker* and the *New Masses* have the party line on all questions

The magazines of Great Britain and the United States cited for other sections of this book are valuable for Soviet affairs, *Foreign Affairs*, *Political Quarterly*, *Political Science Quarterly* are outstanding Even the popular magazines like *Collier's* and the *American Mercury* carry good articles on various aspects of Soviet life but touch rarely on government The *Russian Review*, New York City, is impartial and has a group of eminent scholars as contributors

For Soviet women, Pearl Buck, cited above, is best, Masha Scott is a typical product of the new regime S M Kingsbury and M Fairchild, *Factory, Family and Women in the Soviet Union*, 1935, is good for the 1930's For factory work, John Scott, *Behind the Urals*, 1942, is an admirable record from personal experience at Magnitogorsk Maurice Hindus, *Mother Russia*, 1943, chaps 16-19, describes the Tregorka factory near Moscow For daily life—and much else—John Lawrence, *Life in Russia*, 1947, and John Fischer, *Why They Behave Like Russians*, 1947, a record of the Ukraine, are to be recommended highly

Education has Beatrice King, *Changing Men*, 1937 and *Russia Goes to School*, 1948, rather laudatory, and Deana Levin, *Children in Soviet Russia*, 1942, a faithful and objective account Medicine has H E Sigerist, *Medicine and Health in Soviet Russia*, 1937 Penology shows L von Koerber, *Soviet Russia Fights Crime*, 1935, and Mary S Callcott, *Russian Justice*, 1935

The constitution of 1936 is highly praised by A L Strong, *The New Soviet Constitution*, 1937, and decried by W H Chamberlin, "Soviet Russia's Goldbrick Constitution," *American Mercury*, October, 1937 Civil law is well done by V Grovski, *Soviet Civil Law*, 1948

The secret police and the terror are described in W G Krivitsky, *In Stalin's Secret Service*, 1939, and by Kravchenko, spy work abroad by the *Report* of the royal commission on Soviet espionage (Ottawa, King's Printer), 1947, and in Igor Gouzenko, *Iron Curtain*, 1947 The Red Army is described by D F White, *Growth of the Red Army*, 1944 Foreign policy is sketched by D J Dallin (pseud ), *Soviet Russia's Foreign Policy, 1939-1942*, 1942 The same author and B Nicolaevsky have a book on *Forced Labor in Soviet Russia*, 1947

The experiences of the Orthodox Church under Soviet rule are narrated by N S Timasheff, *Religion in Soviet Russia*, 1942, and with better documentation by P B Anderson, *People, Church and State in Soviet Russia*, 1944

# PART VI

# The Government of Japan

By JULIUS W PRATT

# Chapter 45

# *Japan Before the Modern Age*

JAPAN today is an ultrademocratic constitutional monarchy It has a figurehead Emperor and a bicameral, elective Diet or Parliament, which in conjunction with a cabinet responsible to it exercises virtually all legislative and executive power Members of the Diet and thousands of local officials are elected by universal suffrage An elaborate bill of rights safeguards the liberties of every individual Such, at least, is the picture if we base our judgment upon the constitution of 1946 and forget the Supreme Commander for the Allied Powers and the occupation forces "SCAP," as the supreme commander's office is called, for the time being tells cabinet and Diet what to do and what not to do, and they follow its directives

A few years ago—in fact until General Douglas MacArthur landed at Atsugi Airfield one August day in 1945—Japan had a very different kind of government Its constitution, indeed, resembled the constitutions of many modern states, but the spirit behind the constitution and even some of its phraseology were medieval The very first article of the constitution (that of 1889) proclaimed "The Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal" Every Japanese school child was taught that the Emperor was divine *(kami)*, that he was descended in a direct line from the Sun Goddess, Amaterasu-o-mikami, whose great grandson, Jimmu Tenno, the "first human Emperor of Japan," had begun to reign in 660 B C [1] The Emperor was regarded with great veneration His personal name (e g , Hirohito) must not be spoken, it must not be bestowed

[1] *Note on the Japanese language* Though the Japanese language is unrelated to Chinese, it has been written since the seventh century A D in the complicated Chinese characters or adaptations thereof Attempts to popularize a Romanized form of Japanese (*Romaji*) have had little success As Japanese names and other words are Romanized for the use of Americans and Europeans, a few simple rules will assist the student in pronouncing them Syllables are not accentuated, the stress is practically the same on all Consonants are pronounced very much as in English There are no sounds corresponding to the English *l, q, v,* and *x*, though *r* has a sound somewhere between English *r* and *l* Vowels are sounded much as in Italian *a* as in *father, e* as in *men, i* as in *caprice, o* as in *home, u* like *oo* in *brood*

In Japanese names, the surname precedes the given name In English-language works on Japan, however, there is an increasing tendency to place the surname last, as in Eng-

upon any of his subjects No one must ever look down upon the Emperor from an upper window as he passed through the streets His pictures must not appear on coins and stamps, exposed to defilement His photograph was, however, kept in a "holy of holies" in Japanese schools, whence it was brought out on important anniversaries to be bowed to by awe-stricken pupils Veneration of the Emperor and belief in his divine origin were the core of state Shinto, Japan's official religion [2]

The Japanese people, too, were not as other men Like their Emperor, they were descended from the gods, though their ancestry was less illustrious than his Their very islands partook of the divine It was not surprising that Japanese who believed these things believed that their Emperor was destined to become a world Emperor *Hakko ichiu* ("eight corners under one roof") was a slogan attributed to the "first human Emperor" when he was engaged in bringing all Japan under his sway The phrase was revived in the 1930's It was elastic "Eight corners" might mean East Asia, Greater East Asia, the world The "one roof" was, of course, the Emperor and his government

How many Japanese actually believed this mythology? No doubt there were widely varying degrees of faith and skepticism, as there are in the membership of many a Western religious congregation The second and third decades of the twentieth century were times of skepticism, of experiments in a scientific approach to history and political science Then a history of Japan, published by Professor Katsuro Hara in 1916, began with the story of the first authenticated events in the sixth century A D, simply omitting all mention of the Sun Goddess, Jimmu Tenno, and other mythological figures A political scientist, Dr Tatsukichi Minobe, in a book on Japanese government, referred to the Emperor as an "organ of the state," and suggested that the ruler owed his power to the people Many Japanese must have agreed with these eminent scholars But in the 1930's, when the military took control, such liberal ideas became dangerous Professor Minobe was attacked, literally and figuratively His books were suppressed, they were even ceremonially burned by the army He was forced to resign from his chair at Tokyo Imperial University and from the House of Peers He narrowly escaped death by an assassin's bullet Belief in the divinity of the Emperor and the accompanying mythology became a test of loyalty Skeptics had to cross their fingers and tighten their lips

Another difficult question is How far was the official mythology of the Emperor's divinity a modern creation? It certainly was nurtured after the Imperial Restoration of 1868 by clever statesmen who wished to build a

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lish That practice is followed in this treatise For example, Ito, the chief author of the constitution of 1889, will appear herein as Hirobumi Ito, not Ito Hirobumi, as the Japanese call him

[2] In 1900 it was officially declared that state Shinto was "not a religion" The declaration was a subterfuge, designed to reconcile the requirement that all subjects practice state Shinto with Japan's theoretical freedom of religion

national patriotism around the Emperor as a symbol and to use the power of that symbol for what they considered the good of the state Before that? One reads of centuries in which the Emperor's power was nil while the state was ruled by others, of rival Emperors from different branches of the imperial family, of Emperors deposed and assassinated, of Emperors in such dire poverty that their families could not pay for their burial Yet it must be remembered that there always *was* an Emperor, that he always came from the same Yamato family line (though occasionally by adoption), that no other official, however great his power, ventured to place himself on the imperial throne Even in times of greatest eclipse in power and authority, Japanese Emperors apparently lived in an aura of sanctity And indeed, the earliest Japanese writings embody the Sun Goddess legend, and our first authentic glimpses of the Emperors, when they were little more than tribal chiefs, yet show them enjoying a certain preeminence over neighboring chiefs It seems quite certain that at a time before the beginnings of reliable records the chiefs of the Yamato tribe had convinced their neighbors and rivals that they had some special claim to respect

The Yamato tribe or clan, from which came Japan's long line of Emperors, was one of many such clans whose Mongoloid ancestors had crossed from Korea to Kyushu or western Honshu, probably about the first century of the Christian era They found in the islands a primitive race whose light complexion and plentiful body hair suggest Caucasian kinship Scanty remnants of this people, the Ainu, are found today in northern Japan Certain physical traits of the modern Japanese are thought to betray a strain of Ainu blood Certain culture characteristics suggest that early migrations may also have come from southern China or Malaya There seems little doubt, however, that the principal invaders of Japan were folk of Bronze Age culture who came via Korea from northeastern Asia Three implements of common use among them—a sword, a comma-shaped jewel, and a bronze mirror (borrowed from the Chinese)—became sacred symbols of the sovereignty of the Yamato Emperors They were brought down from heaven, legend related, by Ninigi, grandson of the Sun Goddess, and passed on by him to Jimmu Tenno and his descendants

The four islands which the invaders gradually occupied—Kyushu, Shikoku, Honshu, and Hokkaido—lie off the east coast of Asia within ranges of latitude similar to those of the eastern United States from Maine to Georgia Their total area is about that of California, it is smaller than that of France but larger than that of England [3] Of temperate climate and great scenic beauty, the

[3] The four main islands of Japan proper, with the tiny islands immediately off their shores, have an area of 147,707 square miles In the nineteenth and early twentieth centuries Japan extended her rule over the Kurile, Ryukyu, Bonin, and Pescadores Islands, Formosa (Taiwan), Karafuto (southern Sakhalin), Korea, and, as a mandatory power after World War I, over the Mariana, Caroline, and Marshall Islands With these additions the empire had a total area of 263,050 square miles "Manchukuo," which became a

islands are poor in mineral resources Mountains and heavy rainfall spell abundant water power, but Japan could well spare some of its mountains, which reduce the land suitable for cultivation to not more than 20 percent of the entire area

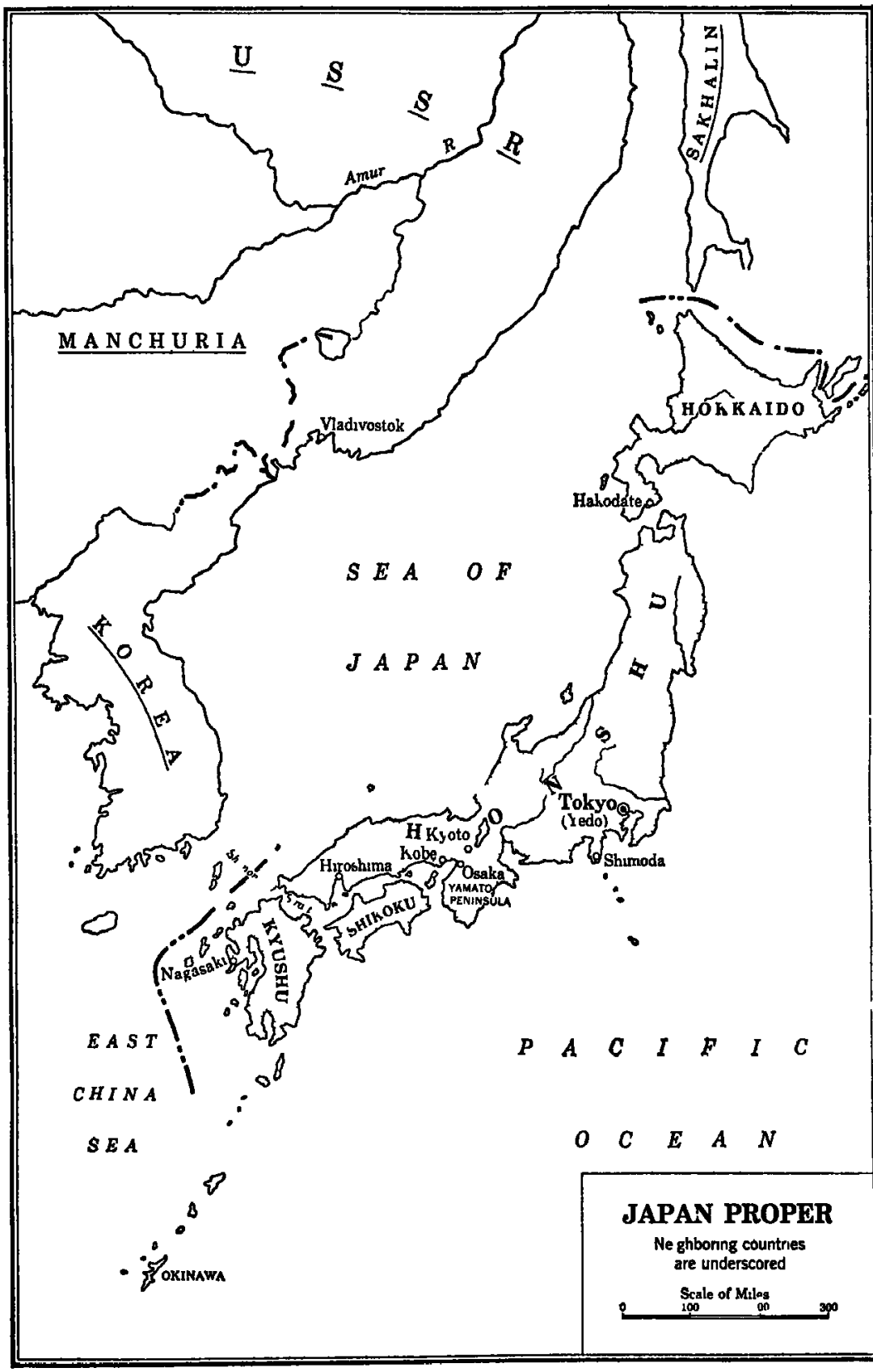
The alleged descendants of the Sun Goddess and their followers appear to have settled first in Kyushu and thence to have crossed into Honshu and to have pushed up along the Inland Sea till they found a permanent home in the Yamato plain in the Kii Peninsula Here until the seventh century A D the Yamato chief or Emperor enjoyed a vague suzerainty over other tribal chieftains but was in reality little more than *primus inter pares* In this period Japan had no true central government

Meanwhile the Japanese people had fallen under the influence of the much higher civilization of China, which under the Tang Emperors (618-907 A D ) was enjoying one of its most brilliant and expansive epochs The Buddhist religion, coming from India via China and Korea, secured a firm foothold in Japan sometime before 600 A D , overshadowing though not supplanting the native Shinto cult Buddhist missionaries from China brought techniques in art and architecture as well as religion Japanese official embassies and Japanese scholars visited China and returned imbued with Chinese learning and Chinese concepts of government The cumbersome Chinese system of writing was adapted to the very different language of Japan, but for centuries Japanese scholars regarded the Chinese language as the language of learning The first Japanese historical works were written—the *Kojiki (Record of Ancient Things)* in 712, the *Nihon-shoki* or *Nihongi (Chronicles of Japan)* in 720 A D These compilations first set down in writing the myths of the Japanese cosmogony, of the Sun Goddess, Ninigi, and Jimmu Tenno They were a naive blending of myth, legend, and historical fact Of events from about 400 A D to the time of their composition they constitute a reasonably dependable narrative

So potent was the attraction of things Chinese that an attempt was made to remodel the loose congeries of tribes that formed Japan into an empire with a centralized government like that of China In the *Taikwa*, or Great Reform, beginning in 645 A D , the authority of the Yamato Emperor was magnified, he was provided with a civil administration comprising three chief advisers and eight governmental departments, and the former tribal areas were made prefectures or provinces with governors appointed by the Emperor Even the Chinese capital city of Ch'ang-an was copied, first at Nara, then at Kyoto

The Japanese reform, however, missed one of the chief points of the long-

Japanese protectorate in 1932, was 503,013 square miles in extent At the height of her conquests in 1942 Japan controlled an area of 3,250,000 square miles with a population of 300,000,000 The population of postwar Japan (1946) was just over 73,000,000 See George B Cressey, *Asia's Lands and Peoples* (New York, 1944), p 170 *et passim*




Japan Proper and Neighboring Countries

established Chinese civil service which it undertook to copy Whereas Chinese appointments were made as a result of civil service examinations and officials were not allowed to serve in their native districts, nor for long in any one, Japanese governors were appointed from among the local clan leaders and their positions were allowed to become hereditary Although Japan, therefore, had a central government with an Emperor and a bureaucracy, local autonomy and local loyalties were not greatly interfered with Out of this situation was to grow Japanese feudalism

Soon after the Great Reform the Japanese government assumed a characteristic which was to mark it for a thousand years—nominal rule by a shadowy (though sacrosanct) Emperor, real rule by an official who was nominally a servant of the Emperor For several centuries civil officials of the great Fujiwara family were the power behind the throne, governing much of the time as regents for minor Emperors In the twelfth century the Fujiwara were ousted by clans of fighting men—first the Taira, then the Minamoto Yoritomo, the leader of the latter band, was the first to assume the title of Shogun, or General—in full, *sei-i-tai shogun*, "barbarian-subduing great general," in allusion to the exploits of the Minamoto against the Ainu Yoritomo set up his capital at Kamakura, leaving the Emperor at Kyoto Henceforth Japan had two capitals Kyoto, where the Emperor reigned among a do-nothing court nobility, and Kamakura (later Yeddo), whence the Shogun governed through henchmen planted on estates throughout the land

The Minamoto were soon supplanted in the shogunate by the Hojo and these in turn by the Ashikaga The Ashikaga Shoguns never held firmly the reins of government Internal strife and civil war prevailed, and power slipped from the hands of the Shoguns to those of local lords, or daimyo, who ruled their estates as little despots, greatly resembling the feudal nobles of medieval Europe Not until the end of the sixteenth century was unity restored Several military leaders—Nobunaga, Hideyoshi—were architects of the new unity, but the man who finally placed it on a firm foundation was Ieyasu Tokugawa, a daimyo with great estates about Yeddo, the modern Toyko Seizing power after Hideyoshi's death in 1598, Ieyasu took the title of Shogun in 1603 and fortified his position with such political skill that the Tokugawa shogunate lasted for two and a half centuries—from the days of Queen Elizabeth to those of Andrew Johnson and John D Rockefeller

The Tokugawa built for themselves a resplendent capital at Yeddo, whence they governed their own great family estates directly and the remainder of Japan through vassal daimyo Daimyo who had aided Ieyasu in his climb to power were known as *fudai* or hereditary daimyo, they held most of central Japan Daimyo who had given their allegiance only after the Tokugawa triumph were "outer daimyo" Their estates were in the north and west, and their loyalty was a matter of concern to the reigning family Lesser vassals of the Tokugawa were called "banner-men" or "standard-bearers" They

were available for administrative posts To insure the loyalty of the daimyo, both *fudai* and outer, every daimyo was required to live half of each year in Yeddo and to leave his family there as hostages while he was on his fief A well-organized secret police furnished a further safeguard against disaffection

Below the daimyo, as retainers and administrators, were the samurai (retainers or serving men), also known as "two-sword men" because each samurai was entitled to wear a long and a short sword If the daimyo corresponded to the barons and other nobles of European feudalism, the samurai were the counterparts of the knights And as knights had their code of chivalry, samurai had their code of *Bushido*, "the way of the warrior" Samurai virtues were loyalty, obedience, courage, and fortitude in suffering Nominally a warrior class, the samurai found little military employment in the peaceful centuries of Tokugawa supremacy, and though the soldierly ideals were not forgotten, many of the samurai became skilled administrators and not a few became scholars Largely from this class came the men who were to make the new Japan of the nineteenth century

Japanese society under the Tokugawa was rigidly stratified The pattern was the Confucian one which China had adopted many centuries before, but with two significant variations Confucius, or his interpreters, had placed the scholar in the highest social rank, followed by the farmer, artisan, merchant, and soldier, in that order In Japan there was no separate scholar class, and the warriors (daimyo and samurai) were placed at the top Then came, in the Chinese order, farmers, artisans, and merchants The merchant's low standing was presumably the result of a naive economic theory which stamped his calling as nonproductive and hence as of little social value Not only were the members of society frozen in their respective callings and social levels, for each class matters of dress, diet, amusements, and general behavior were rigidly prescribed A static society was the Tokugawa objective

While Shogun and daimyo had, in theory, despotic powers, in practice there was considerable local autonomy in the government of cities, towns, and villages Headmen, assemblies, and elders, in part elective, in part hereditary, divided authority with magistrates named by the Shogun Such representatives as "the people" had, however, were almost exclusively drawn from or selected by the large landowners Villages were divided into five-family groups, or "neighborhood associations" The head of each group was held accountable for the conduct of its members

At the apex of the governmental pyramid was the Shogun (sometimes, though illegally, called *Taikun*, "Great Prince") The Emperors lived on at Kyoto, do-nothing sovereigns surrounded by do-nothing courtiers After 1634 the Shoguns paid no heed to the Emperors, and the Shoguns' vassals—the daimyo—were forbidden to visit the imperial court The Shoguns governed through a Council of State, a Junior Council, and a numerous bureaucracy While the Junior Council supervised the lower ranks of

the bureaucracy, the Council of State, a body of four or five members, largely self-perpetuating, directed all major affairs of state After the first three Tokugawa Shoguns, Ieyasu, Hidetada, and Iemitsu—all vigorous and talented men—most authority passed from the Shogun personally to the Council of State Thus in characteristic Japanese fashion the Council of State governed in the name of a Shogun whose nominal authority was exercised in the name of an Emperor As we follow the lines of feudal authority down into the daimiates, we are likely to find situations paralleling that at the top, for the local authority of many a daimyo was exercised by his samurai administrators

As a part of their program for the preservation of political and social stability, the early Tokugawa undertook to insulate Japan from all foreign contacts and foreign influence This was a sharp about-face from earlier policy, for in the sixteenth century Japanese sailors and traders had appeared in all the ports of East Asia, while Portuguese, Spanish, Dutch, and English traders had visited Japan, and Christian missionaries, mostly Jesuits, had numbered their Japanese converts by the hundred thousands

The first hostile impulse was against Christianity Christian sects quarreled among themselves, Catholic Christians owed some sort of allegiance to the Pope, which was held to be in conflict with their duty to the Shogun, the influential Buddhist clergy complained of the inroads of a competing faith For all these reasons Ieyasu and his immediate successors expelled all foreign missionaries from Japan and required native Christians to recant or suffer martyrdom Before 1650 Japanese Christianity had been stamped out or driven underground In the same decades, and no doubt largely because of their connection with the alien religion, Portuguese, Spanish, and English ships and traders were excluded from Japanese ports The Dutch, perhaps because they had shown no proselytizing zeal, were permitted to maintain a single trading post on the island of Deshima in Nagasaki harbor, whither one ship a year might bring its cargo The Dutch traders were confined to their island save once a year, when they paid a ceremonial visit to the Shogun's court at Yeddo Chinese ships were also permitted a limited trade at Nagasaki Other edicts forbade Japanese to go abroad or Japanese abroad to return home Even the building of ships of a size suitable for foreign trade was prohibited

Tokugawa policies produced a regimented, feudal society, protected against revolution from within, insulated against new ideas from without Even the size of the population was stabilized and remained at about 30,000,000 from 1700 to the end of the Tokugawa period But inner change and ferment could not be wholly suppressed, and from a world without, which was undergoing revolutionary changes in science and politics, echoes drifted in through the "open window" at Nagasaki

## Chapter 46

# *From Feudal to Modern in a Generation*

THE event which precipitated the overthrow of the shogunate, the "restoration" of the Emperor, and the ending of the policy of isolation was the visit, in 1853-1854, of Commodore Matthew Calbraith Perry of the United States Navy, bringing a demand that Japan open her ports to the United States The changes that followed so swiftly after Perry's visit cannot be understood, however, without some analysis of preceding developments under the Tokugawa Japan was, in reality, ripe for change when Perry appeared on the scene

In the first place, there had been an important shift in the economic center of gravity The despised merchant class had prospered greatly during two centuries of peace, and despite its isolation from the Western world Japan exhibited many of the marks of modern capitalism, such as commodity exchanges, where the fluctuating price of rice was quoted day by day, and the growth of a money economy This process had been aided by the disappearance, in large part, of economic barriers between daimiates Like the United States under the constitution, Japan had become largely a free-trade area

Agriculture, however, had not shared in the general prosperity Not only were the peasants subjected by their landlords to almost intolerable exactions, many of the landlords themselves—the daimyo—were unable to maintain their accustomed standard of living on their incomes, and their impoverished condition necessarily created difficulties for their retainers, the samurai Daimyo and samurai sought relief from the prosperous merchants—sometimes through loans, often through marriages Young samurai might even forfeit their social status through adoption into merchant families, or samurai families might, for a consideration, adopt merchants' sons On the one hand, then, was a vigorous merchant class, beginning to become respectable and eager for new opportunities, on the other hand, those who derived their living from the land—daimyo, samurai, and peasants—all were sinking in the economic scale and not averse to change that would better their condition

A growing knowledge of Japan's past, too, had weakened the position of the Tokugawa The long years of peace had given an opportunity for histori-

cal studies Samurai scholars and Shinto priests, delving into early records, revived the half-forgotten myths and legends of Japanese origins Shinto, as a native, nationalist religion, began to overshadow imported Buddhism Numerous popular Shinto cults appeared Tales of divine ancestry, taken seriously, bolstered a sense of national superiority, already fostered by centuries of isolation The same historical studies revealed that the Emperors had once not only reigned but governed, that the Shoguns were usurpers of imperial prerogatives Thus the Japanese were psychologically prepared for the overthrow of the shogunate and the restoration of the Emperor

Educated Japanese, furthermore, knew much of what was going on in the great world outside their narrow walls Early in the eighteenth century the Tokugawa had lifted the ban on the importation of foreign books, except those dealing with Christianity Through contact with the Dutch at Nagasaki Japanese scholars learned not only Dutch but other Western languages, and a smattering of Western science and Western techniques Members of Perry's expedition found that Japanese who came on board the flagship showed a surprising familiarity with modern mechanical devices A young American officer recorded in his diary "The Magnetic Telegraph has been in operation, —a party of Japanese are placed at each end, they send each other messages, and are apparently delighted with it, and are familiar with the theory of the thing, as they appear to be with everything else They walk about the ship pointing to various things, calling them by their European names, and explaining their uses There are one or two of their Interpreters who read English very fluently, without understanding it to any extent "[1]

Nor was Japanese acquaintance with Western science solely theoretical The daimyo of Satsuma in the south and of Mito in the east had built shipyards and arsenals on Western models The lord of Choshu had erected on the straits of Shimonoseki batteries of artillery which were at least efficient enough to make passage of the straits hazardous for European and American ships

It was significant that several of the Western daimyo whose large fiefs were in close proximity to the Dutch trading post and hence most exposed to outside influences were jealous rivals of the Tokugawa Shoguns The lords of Choshu, Satsuma, Tosa, and Hizen were among those "outer daimyo" who had accepted Tokugawa rule reluctantly and had never been fully reconciled to it These four clans, and especially Choshu and Satsuma, were to play a leading part in deposing the Shoguns and building a modern state on the basis of loyalty to the Emperor

Such were some of the elements in the internal situation when Perry's "black ships" steamed up Yeddo Bay in July, 1853 The sight of ships moving against wind and current astounded the simple population, and Perry's

[1] A B Cole (ed), *With Perry in Japan The Diary of Edward Yorke McCauley* (Princeton, 1942), pp 90-91

demands—the opening of commercial relations, coaling and supply privileges, protection and repatriation of shipwrecked sailors—brought consternation and division to the Shogun's court The Shogun took an unprecedented step, he asked advice of the Emperor and the daimyo The Emperor's advisers and the western daimyo replied "Expel the barbarians" The more progressive individuals at the Shogun's court advised assent to Perry's program When Perry returned, in February, 1854, with an augmented force and a threat that he would "not be responsible for the consequences" if the Shogun refused a treaty, the latter resolved to yield A treaty was signed, opening two ports, Shimoda and Hakodate, to American ships, promising humane treatment for shipwrecked sailors, and permitting the United States to establish a consulate at Shimoda

The treaty of 1854 was the thin end of an entering wedge More comprehensive treaties with the United States were signed in 1857 and 1858, and after each successful negotiation by the Americans, the principal European powers demanded and obtained similar privileges The process was facilitated by contemporary events in China, whose powerlessness before European arms was demonstrated in a series of wars with the British and French from 1839 to 1858

This abandonment of Tokugawa isolationism, however, was not accomplished without resistance from within The western clans, eager for an excuse to attack the Shogun, found it in his yielding to the foreigner in disregard of the Emperor's advice "Honor the Emperor—expel the barbarian!" became the watchword of the westerners and other conservatives An assassin slew the minister who had signed the American treaty of 1858 Foreigners were murdered by enraged Satsuma samurai Foreign ships were fired upon by Choshu shore batteries An imperial decree of 1863 directed the Shogun to drive out all foreigners save traders at two ports The Shogun, who knew something of the power of modern armaments, temporized and procrastinated While he waited, the western daimyo received a wholesome object lesson European and American naval squadrons retaliated for injuries and insults by bombarding Kagoshima, the Satsuma capital, and destroying the Choshu batteries on the straits of Shimonoseki A later naval demonstration at Osaka, the port of Kyoto, resulted in imperial ratification of the treaties and put an end to the attempts to reimpose isolationism Japanese leaders now saw clearly their country's inability to resist occidental force From a policy of exclusion they turned suddenly to one of acceptance and imitation

The change in policy, engineered for the most part by bright young samurai of the western clans, was accompanied by a change in government The Shogun's policy had won, but the resistance which it had built up spelled the end of the shogunate Both Shogun and Emperor died, in 1866 and 1867 respectively The new Shogun, a convert to the imperial supremacy school, was easily induced to abdicate, yielding his authority to the Emperor The

new Emperor, a boy of fifteen, was Mutsuhito, destined to reign long and illustriously under the reign name of Meiji, "Enlightened Rule" He readily lent himself to the plans of the reformers January 25, 1868, the Emperor was "restored" to his "true position" as head of the government This was the "Meiji Restoration" Later in the same year the imperial court moved to Yeddo, which was rechristened Toyko, "Eastern Capital" Shogunal rule had ended, but real power was emphatically not in the hands of the boy Emperor It was wielded by the samurai of Satsuma, Choshu, Tosa, and Hizen, who had engineered the change, and the greatest of these were Satsuma and Choshu

The principal goal of Japan's new rulers was to make their nation so strong that it could meet the powers of Europe and America on equal terms and not fall a prey, like China, to Western imperialism The problem was primarily a military one, but, as the architects of the new Japan were aware, military power in the modern world is dependent upon efficiency in both government and heavy industry The reformers set out, therefore, not only to provide Japan with a modern army and navy but also to reform Japanese government and to build up a new industrial system on Western models

One of their first steps was to destroy feudalism and thereby divert to the central government loyalties which had formerly attached to the daimyo The Tokugawa clan, after the abdication of the last Shogun, had been required to surrender its estates to the Emperor The daimyo of Satsuma and Choshu were induced by their samurai to do the same, and a similar surrender was then required of all remaining daimyo The former daimyo were permitted to serve briefly as imperial governors of their old fiefs, but this arrangement was soon terminated, the lands were divided anew into administrative areas called *ken* or prefectures under appointed governors, and the ex-daimyo, compensated first with pensions, then with lump sum payments in government bonds, became eventually members of a new nobility with titles ranging from prince down to baron, depending on the size of the former fiefs The *kuge*, or court nobility, also became members of the new orders The samurai, who had derived their living from the daimyo, were given government annuities, later commuted to small lump sum payments The samurai ceased to exist as a distinct class The new military policy, calling for universal service and a conscript army, removed the exclusive soldierly function of the "two-sword men" Many of them, of course, became officers in the new army and navy, many attained high rank in the civil bureaucracy, others became professional men, scholars, policemen, and plain businessmen The rigid class divisions of Tokugawa times were a part of the feudal setup and disappeared with it Former daimyo were now free to invest the proceeds of their government bonds in commerce or industry, and former samurai did not lose caste in becoming factory managers or engineers Some social stratification still existed but the individual was no longer frozen in the stratum of his birth

In the construction of their new army and navy, their new systems of industry, transportation, and education, the Japanese of the nineteenth century were as ready to imitate the West as their predecessors of twelve centuries before had been to imitate China Foreign experts were brought to Japan and bright young Japanese were sent abroad to learn foreign methods In every field they sought the best available models and advice Thus the navy was patterned on British, the army first on French, later (after 1871) on German, models The Code Napoléon became the basis of the legal system The Germans were copied in methods of public administration, public health, medicine, and sanitation British methods in trade, British and American techniques in industry and transportation were studied and imitated

Since Japan was poor in fluid capital, and since foreign control of the new enterprises was to be avoided for obvious reasons, the Japanese government played a large part in the financing and directing of industry and transportation Many industries, writes an American authority,

> were established by the government with the idea of providing an example for private enterprise At one time or another, the government has built and operated porcelain works, silk spinning mills, cotton spinning mills, wool spinning and weaving mills, a linen factory, cement and brick plants, plants for soap making, type founding, and paint making, food factories, iron and steel plants There are few modern industries in Japan today that do not owe their existence to government initiative In most cases, the government has endeavored to withdraw from the industries as soon as possible and to turn them over to private companies, but in some cases that has been impossible and the government has continued as an active agent in manufacturing Japanese industry of the present day owes its state of development primarily to the efforts of a highly paternalistic central government [2]

In railroads and other public utilities government ownership was the rule Such key industries as shipping, shipbuilding, mining, and textiles, though in large part privately owned, were subsidized, protected, and encouraged by the government and in return were required to submit to government policies Even firms of private ownership and origin were dependent upon government initiative in research and upon government control of banking and credit

A government so active in the ownership, promotion, and direction of business in addition to performing the more conventional governmental functions had need of a large and well-trained bureaucracy, and this in turn could be provided only by a well-adapted educational system The new leaders of Japan set out to rebuild education from bottom to top Primary education (normally six years) was made compulsory in 1872 From the primary grades the system, all under a new Ministry of Education, reached

[2] John E Orchard, *Japan's Economic Position* (New York, 1930), p 90

up through middle and higher schools to the imperial universities, while special schools, both middle and higher, gave specialized training in such fields as mechanics, commerce, navigation, and education For high government posts, graduation in the law curriculum of Tokyo or Kyoto Imperial University became almost indispensable, but for the more humble positions in the four-class civil service graduation from the middle or higher schools sufficed A merit system, with examinations for appointment and promotion, was instituted in 1885 and 1886 Since government and industry marched hand in hand, much of the training that fitted young men for government posts fitted them also for jobs in industry, and it was said that every school or university graduate was practically assured employment suited to his education Schooling was not free, but costs were so low that the system was really democratic

Fortunately, the Tokugawa administrative system had functioned effectively up to the abdication of the last Shogun, and the Emperor and his advisers were able to take over a government that was a going concern For twenty years the system remained in essentials similar to that under the shogunate A Council of State, under different names and with varying membership, exercised supreme power in the name of the Emperor In 1875 a Senate and a Supreme Court were added, superficially fulfilling the separate legislative and judicial functions prescribed by Western political theory, but really subordinate to the Council of State Until 1885 the executive departments existed within the Council of State In that year the council was abolished (a new body—the Privy Council—was called into being three years later), and a cabinet of nine department heads, or ministers of state, under a Minister President, was substituted

All of these bodies were appointive Their membership was drawn from the imperial family, former daimyo and court nobility, and influential samurai —especially those of Choshu and Satsuma

The only attempt at popular representation in the national government in this period was a short-lived deliberative assembly which met in 1869 and 1870 Its members represented the still extant clans—276 of them Its deliberations were not a success, and it was abolished in 1873 In local government, however, the headmen of towns and villages were made elective, and these local units, as well as the *ken* (prefectures) and *fu* (urban prefectures), were given elective assemblies Meanwhile, by the "Charter Oath" of 1868, the Emperor had promised "an assembly widely convoked," through which "great stress [would] be laid upon public opinion," and as an answer to subsequent agitation had in 1881 made the further promise that a parliament would be established in 1890 The latter promise implied also that there should be a written constitution How these assurances were carried out is the subject of the next chapter

Chapter 47

# The Constitution of 1889

THE promise of 1881 that within nine years Japan should have an elected parliament and presumably a constitution was given by the Emperor and the ruling oligarchy in response to demand by certain very vocal classes in the population The new imperial government had scarcely been set up before it was assailed by agitation calling for liberalization along lines common in the West—a written constitution, a popularly elected legislature, and a ministry responsible to it These proposals—put forward by the newly established Japanese press and by popular leaders—were partly a result of a study of European systems, but they had another source in jealousy directed against the Choshu and Satsuma leaders who had achieved a near-monopoly in their control of the new government It was significant that the two men who led the agitation for liberal reform, Shigenobu Okuma and Taisuke Itagaki, were former samurai respectively of Hizen and Tosa, two western clans which had received scanty consideration in offices and influence

The government adopted a policy of suppressing agitation on the one hand while on the other it made discreet concessions Newspapers were placed under censorship and political societies which had sprung up to promote reform were forced to dissolve Meanwhile the promise of a parliament was held out, and Hirobumi Ito, a distinguished Choshu ex-samurai, was sent to Europe and America to make a study of constitutions with a view to devising one for Japan

Of the various constitutions which Ito investigated, that of Prussia, with its strong authoritarian tone, restricted suffrage, powerful House of Peers, and ministers responsible to the King, seemed to him most nearly adapted to Japanese needs, and the document which Ito was instrumental in preparing showed many resemblances to the Prussian model In the actual drafting of the constitution of 1889, much of the work was done by three experts—Myoji Ito, Tsuyoshiaki Inouye, and Kantaro Kaneko—who served under Ito's direction, and the Emperor himself, who had developed rapidly into a man of force and character, participated regularly in the discussions The completed product of their joint efforts was approved by the newly constituted Privy

Council and thereupon, without prior publication or opportunity for public discussion, was promulgated by the Emperor as a gift to his people The date was February 11, 1889—the 2549th anniversary of the legendary founding of the Japanese Empire by Jimmu Tenno A volume of *Commentaries on the Constitution of the Empire of Japan*, copyrighted by Hirobumi Ito and written by him and other members of the drafting board, occupies a place in Japanese constitutional history analagous to that of the *Federalist* papers in the United States

## *THE EMPEROR*

To a westerner the most striking features of the constitution of 1889 are found in Chapter I, defining the status and powers of the Emperor "The Empire of Japan," says Article 1, "shall be reigned over and governed by a line of Emperors unbroken for ages eternal" [1] Succession was in the male line, "according to the provisions of the Imperial House Law," over which the Diet had no control The Emperor "is sacred and inviolable" He "is head of the Empire, combining in himself the rights of sovereignty, and exercises them, according to the provisions of the present Constitution" He "exercises the legislative power with the consent of the Imperial Diet" The Emperor convoked, opened, closed, and prorogued the Diet and dissolved the lower, or elective, house He might, in times of emergency, when the Diet was not in session, issue ordinances that had the force of law, but such ordinances ceased to be valid unless approved by the Diet at its next session The Emperor was the supreme commander of the army and navy, determined their organization and peace standing, appointed and dismissed their officers, and fixed their salaries He declared war, made peace, and concluded treaties He conferred titles of nobility and granted amnesty, pardon, and commutation of punishment

On paper, then, under the constitution, the Emperor was a very powerful sovereign In actuality such authority as he exerted was the result of influence rather than of imperial prerogative No official act of his was valid unless countersigned by a minister of state (cabinet member), and in addition to the ministers he was surrounded by other advisers, both civil and military, who greatly circumscribed his power An Emperor of strong personality, like Mutsuhito (Meiji), could exert much influence on the determination of policy His weaker son and grandson were more often symbols in the hands of their advisers

## *THE IMPERIAL DIET*

The Imperial Diet consisted of a House of Peers and a House of Representatives The Diet met in annual sessions not more than three months in duration unless prolonged by order of the Emperor, but might be convoked

[1] The translation here used is that printed as Appendix IV in Harold S Quigley, *Japanese Government and Politics* (New York, 1932)

in extraordinary sessions in cases of "urgent necessity" When the Emperor dissolved the House of Representatives, a new election must be held and the new House must be convoked within five months of the date of dissolution The two houses were essentially alike in powers Though the budget must be submitted first to the House of Representatives, the House of Peers was free to amend or reject it A bill became law when passed by both houses and approved by the Emperor

In the organization and membership of the Diet the constitution left many points to be settled by legislation or ordinance[2] The House of Peers, as eventually constituted, comprised the male members of the imperial family over twenty-one years of age, all princes and marquises over thirty, one-fifth of the members of the three lower orders of nobility (counts, viscounts, and barons) chosen by each order for seven-year terms, a member for each of the forty-six prefectures chosen for a seven-year term by the fifteen highest taxpayers in the prefecture, four members of the Imperial Academy appointed for seven-year terms, and a number of life members (in later years about 125) appointed by the Emperor because of distinguished service, usually in statecraft or learning In the 1930's the House of Peers numbered about 400 members As its composition would suggest, it was a conservative body, exercising an influence not unlike that of the British House of Lords before the reforms of 1911

Such political democracy as the constitution of 1889 exhibited was embodied in the House of Representatives, an elected assembly with powers equal to those of the House of Peers The House increased in size from about 300 members in the first Diet to 466 in the 1930's Members were elected, after 1925, from election districts—three, four, or five members to a district, depending on its population Each voter, however, could vote for but one candidate Members must be thirty years of age or over, electors twenty-five For electors a tax-paying qualification of 15 yen was gradually reduced until 1925, when it was abolished Thereafter manhood suffrage prevailed, though persons on relief, as well as bankrupts, convicts, incompetents, members of the armed services on active duty, and heads of noble families were denied the franchise Members were elected for four-year terms, these might be cut short, however, by a dissolution of the House In spite of strict election laws, bribery was common The party in power enjoyed a great advantage in elections, for the Minister of Home Affairs, who through the prefectural governors and the police controlled the election machinery, might be, and often was, campaign manager for his party

Although the Diet was in many respects a powerful body, its authority fell far short of that of, let us say, the British Parliament, and the contrast is

[2] The Imperial Ordinance concerning the House of Peers, the Law of the Houses of the Diet, and the Election Law of 1925, in English translation, are printed in *ibid*, Appendices VIII, IX, and X

particularly glaring if we compare the elective branches of the two bodies The British House of Commons has (since 1911) complete control of finance, its control of other legislation is subject only to a suspensive veto by the Lords, and it controls the cabinet, which cannot remain in office without the support of a majority in the Commons The Japanese House of Representatives, on the contrary, could enact no legislation of any kind without the concurrence of the House of Peers, and bills passed by both houses were still subject to imperial veto The control of finance, which the House of Representatives shared with the nonelective House of Peers, was far from complete even then The Diet could refuse to authorize new or increased expenditures, but it could not, without the consent of the ministry, curtail those already in effect The Diet could, for example, block an increase in official salaries, the creation of a new army division, or an addition to the expenses of the imperial household, but once it had authorized any or all of these increments, it could not withdraw them without consent from above Furthermore, if the Diet adjourned in any year without passing the budget, the previous year's budget continued in effect The power of the purse, such a significant factor in the development of responsible government, was bestowed only in niggardly fashion upon the representatives of the Japanese people Nor did the House of Representatives, like its British counterpart, control the cabinet

## *THE CABINET*

The constitution did not use the term *cabinet*, it provided for "ministers of state" The ministers of state had, however, since 1885 functioned as a cabinet, making joint decisions and assuming joint responsibility That they were to continue to do so was made plain by an Imperial Rescript of 1889,[8] which listed the subjects which were to be "submitted for deliberation by the Cabinet" and required that all laws and ordinances affecting the administration as a whole should "bear the countersignature of the Minister President as well as that of the Minister from whose Department they directly emanate"

The cabinet consisted of a Minister President and the ministers of state who headed the several executive departments The latter increased in number from nine in 1889 to twelve in 1929 Ministers without portfolio were sometimes added Aside from administering the business of the respective departments and framing general policies, the cabinet had important legislative functions Ministers of state might be, but were not required to be, members of the Diet, whether members or not, they were privileged to sit and to speak in either house Nearly all legislative measures of importance were introduced in the Diet by the ministers Individual members might indeed introduce bills in either house, but such bills rarely became law

On the subject of cabinet responsibility the constitution was ambiguous Article 55 stated "The respective Ministers of State shall give their advice to

[8] *Ibid*, Appendix VII

the Emperor, and be responsible for it" To whom they should be responsible was not indicated Ito, in his *Commentaries*, however, made it plain that while the ministers might owe a secondary responsibility to the Diet or to the people, their primary responsibility was to the Emperor To the Emperor they owed their appointments, and so long as they enjoyed the Emperor's confidence they might remain in office All efforts of the Japanese liberals to establish the principle of cabinet responsibility to the House of Representatives came to naught In theory, at least, this principle was never accepted. In practice, a hostile House of Representatives could create such difficulties for a cabinet as to compel it either to resign or to advise the Emperor to dissolve the House But the Emperor was under no obligation to choose a new Minister President from the majority party in the House

As in other parliamentary governments, the Minister President—Prime Minister or Premier is the more familiar term—was responsible for forming the cabinet, reshuffling the offices when necessary, guiding the formation of policy, conferring with the sovereign, and submitting the joint resignations of the ministers when occasion arose His function as head of the cabinet was, however, subject to one important limitation The Army and Navy Ministers had independent access to the Emperor and might thus have their say behind the back, as it were, of the Prime Minister In a measure this arrangement removed these two key ministries, and hence military policy, from the effective control of the Prime Minister Still another peculiar feature of the Japanese government enhanced the power of the military Only high army and navy officers in active service were eligible to serve as Army and Navy Ministers The higher military and naval officers, therefore, could prevent the formation of a cabinet, or force the resignation of one to which they objected, by the simple expedient of preventing members of their cliques from accepting the Army and Navy portfolios [4] A Japanese Minister President, therefore, was in a very different situation from that of a British Prime Minister or a French Premier Though not dependent for his office upon a parliamentary majority, he was not complete master in his own household The armed services could obstruct his selection of ministers or could even bring about his own downfall, they could, and sometimes did, obtain the Emperor's sanction for measures of which the Minister President had not approved

[4] The requirement that the Army and Navy Ministers should be generals or lieutenant generals, admirals or vice-admirals, on active duty was inserted in an imperial ordinance by Prince Yamagata during his premiership, 1898-1900 R K Reischauer, *Japan Government—Politics* (New York, 1939), pp 118-119

For many years after the Restoration the higher army and navy officers came almost exclusively from the former Choshu and Satsuma clans, respectively This was only one of the means by which Choshu and Satsuma men continued to dominate the government long after the formal dissolution of the clans

## *THE PRIVY COUNCIL*

Created in 1888 partly to advise the Emperor upon the proposed constitution, the Privy Council was perpetuated by that instrument, which provided merely that the councilors should "deliberate upon important matters of State, when they have been consulted by the Emperor" Members of the council, who must be at least forty years of age, were appointed for life by the Emperor upon the advice of the Prime Minister, but the Prime Minister made no recommendation for an appointment without first ascertaining whether it would be acceptable to the existing membership of the council The Privy Council was thus able to control its own membership, and since it began its existence as a conservative body, it retained a conservative tone to the end Ministers of state sat as ex-officio members The regular or life members were normally twenty-six in number They included members of the imperial family, prominent nobles, and men distinguished for achievements in statesmanship or scholarship

The Privy Council advised the Emperor in matters relating to the throne or the imperial family Such matters would be changes in the Imperial House Law, regulation of the succession, the establishment of a regency, etc In the sphere of government, the Emperor was expected to seek its advice on proposals for amending the constitution, important questions of legislation, foreign relations, including the making of war and peace and the ratification of treaties, and disagreements between other governmental agencies as to the interpretation of the constitution and laws While the Emperor was not obliged to follow the advice given by the council, that advice was considered to be of first importance, outweighing that of the cabinet when the two disagreed Emergency ordinances, issued by the Emperor when the Diet was not in session, were required to have the approval of the Privy Council

## *OTHER ADVISERS OF THE EMPEROR*

In addition to the cabinet and Privy Council, both of which were mentioned in the constitution, the Emperor had at his elbow, or at least within easy reach when needed, several extraconstitutional groups of advisers On military questions the Emperor might not only consult directly with the Army and Navy Ministers as noted above, he also took, and followed, the advice of the Supreme Military Council This body included the two ministers just named, the chiefs of staff of both services, field marshals and fleet admirals, and such other high officers as the Emperor might name The *genro* or "elder statesmen," men like Ito who had played a major part in shaping the development of the new Japan and thereafter had withdrawn from public life, constituted a wholly unofficial group of advisers whom the Emperor was wont to consult upon important occasions, especially when he was confronted with the necessity of selecting a new Prime Minister From 1924 until his death in 1940 the sole survivor of the *genro* was Prince Saionji, a former *kuge* or court noble.

Saionji, a liberal by temperament, is thought to have exerted his influence in favor of the development of responsible parliamentary government and against the extreme militarists

Finally, three high court officials attached to the person of the Emperor and concerned primarily with the management of imperial household business rather than with governmental affairs can by no means be omitted from a list of his advisers These were the Minister of the Imperial Household, the Lord Keeper of the Privy Seal, and the Grand Chamberlain They were appointed by the Emperor upon the advice of the Prime Minister and could be dismissed in the same manner but as a rule served until removed by death or voluntary resignation Since the first two of these officials controlled access to the Emperor and could exclude from audience with him even the Prime Minister and the Ministers of the Army and Navy, they were at times able to give direction to imperial policy

## *THE JUDICIARY*

In order to convince the West of the adequacy of its judicial system and thus free itself from the extraterritoriality provisions in the early treaties, Japan hastened to set up a system of courts resembling those familiar in Europe and America The French system, more than any other, provided a model The constitution left the number, organization, jurisdiction, and procedure of the courts to be established by law It did specify, however, that no judge should be deprived of his position "unless by way of criminal sentence or disciplinary punishment", that trials should be public except in cases where publicity would endanger peace, order, or public morals, and that suits arising out of alleged infringements of rights by the administrative authorities should be tried in a Court of Administrative Litigation and not in the law courts

Apart from the administrative court just mentioned the Japanese judicial system came to comprise four grades of courts—local and district courts, courts of appeal, seven in number, and a Supreme Court or Court of Cassation The presidents of the Supreme Court and of the courts of appeal were appointed by the Emperor upon the nomination of the Prime Minister, other judges by the Minister of Justice Before appointment to the higher courts judges must have served for specified periods on the lower bench—five years for courts of appeal, ten years for the Supreme Court Judges served during good behavior and until reaching the age of retirement—sixty-five years for the president of the Supreme Court, sixty-three for all others

Court procedure differed radically from that of common-law countries The writ of *habeas corpus* and indictment by grand jury were unknown So was trial by petty jury until 1928 From that year on jury trial was mandatory unless waived by the accused in criminal prosecutions when the sentence might be death or life imprisonment Persons charged with lesser crimes

might have jury trial on demand The jury determined issues of fact, not of law, the judge was not bound by the verdict, he might throw it out and impanel a new jury, he might even repeat this process without limit Either the accused or the state could, on points of law, carry an appeal through to the Supreme Court No power to review the constitutionality of statutes existed in the Japanese courts A law passed by the Diet and sanctioned by the Emperor could not be questioned

## *BILL OF RIGHTS*

The personal liberties of Japanese were safeguarded, within limits, by Chapter II of the constitution, entitled "Rights and Duties of Subjects" Military service and the paying of taxes were the duties mentioned Among the rights were freedom of movement, of religious belief, of speech, writing, and publication, freedom from search, arrest, or punishment except according to law, and the right of property All of these guarantees were so phrased, however, that although they might protect the individual against arbitrary acts by police and judges they offered no protection against legislative interference Article 29, for example, read as follows "Japanese subjects shall, *within the limits of law*, enjoy the liberty of speech, writing, publication, public meetings and associations", and freedom of religious belief was promised "*within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects*" (The italics are inserted )

## *LOCAL GOVERNMENT*

The Constitution made no provision for local government For the most part it had assumed its modern form before 1889 The system was a centralized one whose closest counterpart was perhaps that of France The ancient daimiates, over three hundred in number, were abolished Forty-six prefectures took their place, of which forty-three (called *ken*) were rural and three (called *fu*) were urban The *fu* were Tokyo, Kyoto, and Osaka Over each prefecture was a governor appointed by the Prime Minister upon nomination by the Minister of Home Affairs Of subordinate prefectural officials the higher were appointed by the Home Minister, the lower by the governors An elected assembly served the governor chiefly in an advisory capacity Ten members of the assembly and the governor formed a sort of governmental council while the assembly was not sitting Prefectural officials were members of the national civil service Cities, towns, and villages had assemblies, councils, and mayors or headmen elected by the assemblies These assemblies were relatively more powerful than those of the prefectures, but powers of local government exhibited only a stunted growth Control of such matters as police, fire prevention, and building regulations radiated from the Home Minister down through the prefectural governors, and there

was little that the local governments could determine without consent from above

### *AMENDMENT*

Being the gift of the Emperor to his people, the constitution could be amended only upon imperial initiative The Emperor might submit a proposed amendment to the Diet Neither house was permitted to open debate upon it unless two-thirds of the entire membership were in attendance To become effective an amendment must be passed by a vote of two-thirds of the members present There was no provision for a popular referendum The subject is an academic one, since the constitution of 1889 was never amended It was replaced bodily by that of 1946

Chapter 48

# Constitutional Government in Peace and War

## JAPANESE CHARACTERISTICS

IT IS much easier to describe the constitution of 1889 than to explain how it operated in real life Such a statement could be made of the constitution of the United States or doubtless of the constitution of any other country It applies with special force in the Japanese case because the modernity of most features of the constitution was belied by the psychology of the people who had to work with it The machinery of the constitution, like that of Japanese railroads and battleships, was essentially modern The mentality, the spiritual outlook, of the men who ran both kinds of machinery was medieval, feudal No student, therefore, can get very far toward an understanding of Japanese government merely by a reading of the constitution and the official commentaries upon it

Of the characteristic Japanese attitudes that went virtually unaffected by modern currents of thought none was more striking than the universal veneration of the Emperor Whatever the origin of the worship of the Yamato Emperors as *kami* (divine beings), the architects of the Restoration were careful to cultivate and intensify it It was the center of the official Shinto religion It was a vital part of education Other modern peoples have had, and have, their religious mythologies The Japanese alone, of civilized nations, have carried such mythologies into the sphere of government The sanctity of the Emperor was always present in the public consciousness An affront to the Emperor, even though inadvertent, could be atoned for only by suicide Death for the Emperor on the battlefield was the highest possible glory Not often did an Emperor have to make decisions in matters of state When he did so—as in the debate over accepting the Potsdam surrender terms in 1945—his decision was instantly binding on ministers and people [1]

Emperor worship exhibited in extreme form the acceptance of inequality which characterized Japanese relationships in general Japanese showed an

[1] See below, pp 810-811

inveterate respect for their superiors in age or station children for fathers, pupils for teachers, the young for the old, tenants for landlords, employees for employers, the ruled for the rulers From this habit of respect there were, of course, individual and even collective departures (as in recurrent peasant revolts in the Tokugawa period), but the prevalence of the habit was impressive none the less It was in keeping with this attitude that Japanese bureaucrats never viewed their role as one of serving the public, it was for the public to accept gratefully whatever its superiors, the officeholders, chose to hand down Traces of feudalism lingered in the strong personal loyalties shown toward political leaders—loyalties which were much more binding than party principles Feudal too—or at least medieval—were the high regard paid to military leaders and the addiction to violence for political ends It had been a virtuous act in a samurai to murder the enemies of his patron daimyo In the new age it became virtuous—in the court of conscience—to murder the "enemies" of the Emperor, that is, those who in the murderer's opinion were giving the Emperor bad advice The Black Dragon Society and other terrorist organizations first showed how to apply this principle in support of nationalistic policies Their technique was adopted, in the 1930's, by chauvinistic young officers of the armed services Prime Ministers, Ministers of Finance, even high army officials, even Ministers of the Imperial Household (the Emperor's closest advisers), who resisted the wishes of army radicals were shot down in their homes and offices by young army and navy assassins

Another peculiarity of the Japanese system—perhaps merely an aspect of the Confucian deference to age—was the influential position of unofficial advisers The role played by the *genro*, or elder statesmen, was mentioned in the last chapter The last *genro* passed from the scene in 1940, but the gap thus left was partially filled by an unofficial council of ex-Premiers *(Jushin)* Though never attaining the prestige of the *genro*, the *Jushin* were similarly consulted by the Emperor in times of crisis To these unofficial fountains of advice and influence should be added the three dignitaries attached to the imperial household, whose peculiar position outside the government but in close daily contact with the Emperor had no counterpart in Western states Marquis Koichi Kido, for example, Lord Keeper of the Privy Seal from 1940 to 1945, is credited with exercising, during most of this period, a sinister influence in support of the militarists and warmongers

## *OLIGARCHS, POLITICIANS, ZAIBATSU, MILITARISTS*

The Japanese government in its evolution from the promulgation of the constitution of 1889 to Japan's entry into World War II passed through three quite distinct phases (1) rule by an oligarchy of ex-samurai seasoned with the influence of political parties (1890-1918), (2) rule by political parties seasoned with big business influence (1918-1931), (3) rule by the military allied with big business (1931-1941) Though this analysis oversimplifies the

situation, it indicates correctly the groups which gave direction to governmental machinery during the half-century before Pearl Harbor It should be added, however, that the permanent officeholding class—the career bureaucrats—were always influential in the making of policy and all-important in its implementation

The oligarchs who held the chief offices and determined policies from 1890 to 1918 were for the most part Choshu and Satsuma men of the generation following that which had engineered the Meiji Restoration Notable among them were Hirobumi Ito, Aritomo Yamagata, Tsuyoshiaki Inouye, and Taro Katsura, all of Choshu, Iwao Oyama and Masayoshi Matsukata, of Satsuma, and Prince Kimmochi Saionji, a former court noble Ito, Yamagata, Katsura, Matsukata, and Saionji from time to time held the office of Prime Minister, most of them on several occasions Saionji may be considered a liberal The others were conservatives, believers in autocratic government, though willing, of necessity, to make "deals" with the party politicians when compelled by the growing power of the latter Several other Choshu and Satsuma men held the premiership briefly during the period The only Premier who came from outside the charmed circle was Shigenobu Okuma, party leader and former Hizen samurai, who served for a few months in 1898 and again from 1914 to 1916

Quarrels within the oligarchy, such as that between Ito the civilian and Yamagata the soldier, and continuous opposition in the Diet to oligarchical rule kept down the average life span of the cabinets of the period to less than two years That the oligarchy as a whole was able to stay so long in the saddle was the result of shrewd alliances with the politicians and of appeals to national patriotism through the launching of such foreign wars as those with China in 1894 and with Russia ten years later After retirement from official station the oligarchs, as *genro*, continued as a force in government Ito was assassinated in 1909, but Yamagata lived on to 1922, Matsukata to 1924, and Prince Saionji remained an adviser to Emperors until his death in 1940

From the opening of the first Diet under the constitution the oligarchs found themselves in conflict with the political parties which controlled the House of Representatives Parties had appeared in Japan even before the promulgation of the constitution, but as unwelcome organs of agitation against the ruling oligarchy they had been suppressed or driven underground Upon the opening of the Diet, however, they reappeared to the number of nearly a dozen Only two of these were of real consequence—the Jiyuto (Liberal party) and the Kaishinto (Progressive or Reform party), founded respectively by those dissatisfied politicians, Taisuke Itagaki of Tosa and Shigenobu Okuma of Hizen These two parties should be remembered as the lineal ancestors of the principal parties of the 1920's and 1930's, the Jiyuto becoming the Seiyukai and the Kaishinto metamorphosing through numerous

intermediate forms into the Minseito In their more modern forms the parties exhibited some real differences of principle and policy, but in general Japanese parties were built more about personalities than those of the West and sometimes changed with kaleidoscopic rapidity in consequence of changing alignments among the leaders The center of party activity was in the House of Representatives Here parties were formed, dissolved, and recombined under new names Parties resembled rather exclusive clubs, membership in which was a privilege, not a right They appealed to the general mass of voters to support them, not to join them Control of party machinery and party policy was exercised from the top Such devices as party primaries were unknown

The Jiyuto and Kaishinto together controlled majorities in the early sessions of the House of Representatives They agreed in their desire to impose parliamentary responsibility upon the cabinet, and their chronic obstructionism came close to paralyzing the government and compelled the oligarchy to make concessions to the party leaders Thus Ito, as Prime Minister in 1896, took Itagaki into the cabinet as Minister of Home Affairs, thereby insuring Jiyuto support, and a few months thereafter Ito's successor, Matsukata, made a similar deal with Okuma and a new party which had supplanted the Kaishinto Thenceforth the oligarchs found it expedient either to join forces with party leaders—as when Ito and Count Inouye took part in forming the Seiyukai from fragments of the Jiyuto—or to appease them with offices and with legislation

It was perhaps more than a coincidence that the year 1918, when democracy seemed about to triumph the world over, saw the elevation of the first Japanese "commoner" to the premiership and the beginning of a period of government closely resembling the true parliamentary type The new Premier was Takashi Hara, Seiyukai party "boss" Though Hara was assassinated in 1921, the system of responsible cabinet government which he had inaugurated outlived him by a decade For most of the time until 1929 the Seiyukai (Political Friends' Association) held control of the House of Representatives and hence of the cabinet In the 1929 elections it was defeated by the newly formed Minseito (Popular Government party), which had fallen heir to the political legacy of the old Kaishinto Thereupon Yuko Hamaguchi, president of the Minseito and a commoner like Hara, became Prime Minister with a Minseito cabinet

Both Minseito and Seiyukai were "bourgeois" parties, closely linked with big business interests Before the end of the 1920's several small proletarian parties had put in an appearance Japan's labor movement had been retarded both by governmental opposition and by a concept of employer-employee relationship that harked back to feudal times After 1918, however, the government gave tacit consent to the formation of unions—though attempts to legalize their status through legislation repeatedly failed—and in 1920 a

General Federation of Labor was formed A small Communist party, led by Kyuichi Tokuda, appeared in 1922 and was reorganized in 1925 under the auspices of the Third International The government's answer was passage of the Peace Preservation Law of 1925, providing prison sentences for persons advocating change in the form of government or abolition of private property Under this law hundreds of young Communists were arrested and imprisoned, and the party was driven underground

The adoption of manhood suffrage in 1925 stimulated the formation of a number of labor, farmer, and farmer-labor parties, and, though several of these were suppressed by the government, those that remained were able to elect eight members of the House of Representatives in 1928 and five in 1930 The labor movement was split by the invasion of Manchuria in 1931 One faction of the Zenkoku-Ronotaishuto (National Farmer-Labor-Masses party) opposed the invasion and adopted the slogan "Absolute opposition to imperialism and war" Another faction joined with the more nationalistic wing of the Shakai-Minshuto (Social Democratic party) to form the Shakai-Taishuto (People's Socialist party), which was not seriously interfered with by the government and as late as 1937 elected thirty-seven members to the House of Representatives

The Seiyukai and Minseito parties, as has been said, maintained close relations with powerful business interests—the Japanese *zaibatsu* These vast family holding companies resembled in certain respects the Morgan or Rockefeller groups of enterprises in the United States Mitsui and Mitsubishi, Sumitomo and Yasuda, however (to name only the "big four" *zaibatsu*), differed from their American opposite numbers (1) in tighter family control, (2) in the more varied character of the enterprises brought "under one roof," and (3), most important for present purposes, in their relation to government As was indicated in an earlier chapter, modern Japanese business enterprise was stimulated, subsidized, and in many instances initiated by government Favored business groups fell heir to government property, were placed in control of industries which government had started, made loans to government at profitable rates, and of course received lucrative government contracts Government's objective was quick results, and since these seemed best obtainable through large-scale organization, government showed no concern for the protection of small business or the prevention of monopoly Japan never had an antimonopoly movement or an equivalent of the Sherman Antitrust Law Thus Japanese big business was a plant that flourished in the sunshine of government favor, not, as in the United States, a noxious weed which government strove unsuccessfully to root out

Of the major *zaibatsu*, Mitsui, an ancient family concern, had risen to greatness through rewards for its support of the Emperor against the Shogun in the struggle preceding the Restoration and through an alliance with the Choshu "elder statesman," Inouye Mitsubishi, of less venerable origin, was

the post-Restoration creation of the Iwasaki family of Tosa, which began business with a few ships, won government favor by carrying troops and supplies to Formosa on a punitive expedition in 1875, and thereafter profited from the friendship of the influential Count Okuma Thus from an early date these two great firms had alliances with architects of the two major political parties, for the reader will recall that Okuma founded the Kaishinto, precursor of the Minseito, and that Inouye cooperated with Ito in organizing the Seiyukai The links thus forged proved enduring The Seiyukai and the Minseito came to be known respectively as the parties which represented Mitsui and Mitsubishi [2]

*Zaibatsu* money helped to finance political campaigns and to turn elections —where, despite strict election laws, bribery was common and on a large scale—and it was no secret that many members of the House of Representatives, elected to their seats with the help of *zaibatsu* funds, were "taken care of" from the same source after election

The policies of the two principal political parties were to some extent determined by the interests of their capitalist backers The Mitsui organization, taking a mercantilist view of its interests, favored a national policy of colonialism—the extension of the imperial boundaries to include markets and sources of raw materials It also favored the promotion of exports by a cheap-money policy Mitsubishi, on the other hand, though rich in heavy industry to which war might prove profitable, had also large shipping and trading interests For these or other reasons, it preferred a policy which would promote and protect normal foreign trade—a policy, namely, of peace and sound money, as opposed to the Mitsui policy of territorial expansion and depreciated currency [3] The Seiyukai, as the political partner of Mitsui, might be called, in the 1920's and early 1930's, the party of imperialism It sponsored inflationary measures for the expansion of exports and was sympathetic with army plans for military conquests in Manchuria and China The Minseito, Mitsubishi's political ally, while standing for administrative and democratic reform at home (sound money, woman suffrage, proportional representation, a legal status for labor unions), supported a foreign policy of restraint, moderation, and adherence to international engagements As the 1930's advanced, however, the parties lost most of their importance, and Mitsubishi and other giant business combines, though they may have deplored the turn of events, found it expedient to play along with the army and make what profit they could out of its program of expanding armaments and territorial conquests

The period of party rule and gradual democratization (witness the man-

[2] A concise and useful discussion of the origins and rise of the leading *zaibatsu* is that by G C Allen in chap 18 of E B Schumpeter (ed ), *The Industrialization of Japan and Manchukuo* (New York, 1940)

[3] R K Reischauer *Japan Government—Politics* (New York, 1939), pp 152-153 n

hood suffrage law of 1925 and the appearance of a labor movement and proletarian parties) came to an abrupt end in 1931-1932 What occurred then was really a "counterrevolution" of the military against the civilian elements in government The Minseito cabinet of 1929, with Hamaguchi as Prime Minister and Baron Kijuro Shidehara, a relative by marriage of the Iwasaki family and hence connected with Mitsubishi, as Foreign Minister, adopted a policy of conciliation toward Nationalist China and of cooperation with the West Notably, it sponsored—despite the vigorous opposition of the chief of the naval staff and the Supreme Military Council—the London Naval Treaty of 1930, which, like the Washington Naval Treaty of 1922, gave Japan a naval strength inferior to that of the United States or Great Britain The treaty produced a showdown between the cabinet, which supported it, and the naval staff, which opposed its ratification Prince Saionji, the last *genro*, and the Emperor's personal advisers—the Imperial Household Minister, Lord Keeper of the Privy Seal, and Grand Chamberlain—supported the cabinet There were hints that the Privy Council might be packed if it withheld its approval The Privy Council yielded, the Emperor ratified the treaty The civilian elements in government had won an impressive victory over the militarists Some observers assumed prematurely that the victory was permanent and that, as one of them put it, the "camp" was now to be relegated "to a position secondary in all matters of policy to that of the cabinet" [4]

The "camp" was prompt in striking back The army and navy faced a triple threat to their ambitions Hamaguchi's moderate attitude toward the new Kuomintang government of Chiang Kai-shek in China might spell the end of the army's dreams of empire on the mainland The London Naval Treaty seemed, to the more aggressive navy men, to consign their arm to an intolerable inferiority to the navies of rival powers Worst of all, the ratification of that treaty over the opposition of the armed services was a threat to the impregnable position that they had long enjoyed in the determination of policies concerning themselves

The first counterblow was the assassination of Prime Minister Hamaguchi in the fall of 1930 Shidehara and Reijiro Wakatsuki, who in succession followed him in the premiership, lacked his political strength Possibly Hamaguchi might have held the militarists in check, his successors could not do so In September, 1931, the Kwantung Army, stationed in the Liaotung Peninsula and along the South Manchuria Railway, found a pretext for seizing Mukden and beginning the occupation of all Manchuria Wakatsuki and Shidehara tried in vain to restrain the army, giving to the United States and the League of Nations reassuring promises which they were unable to fulfill Having secured from the Emperor full authority to protect Japanese subjects in Manchuria, the army pursued its course of conquest, ignoring the protests

[4] H S Quigley, *Japanese Government and Politics* (New York, 1932), p 109 The episode is covered in *ibid*, pp 106-109 See also R K Reischauer, *op cit*, p 152

of the civilian ministers and their promises to foreign powers In December, 1931, the Minseito government resigned A Seiyukai cabinet followed, with Tsuyoshi Inukai as Prime Minister and General Sadao Araki, an avowed militarist, as Army Minister

In reality it was the army which had come to power, though that result was not immediately apparent The Japanese army had become a political force for the time being more potent than parties, civil bureaucrats, or *zaibatsu*, and perhaps more accurately than any of its rivals it represented the people of Japan For the modern Japanese army was democratic in the sense that officers as well as men came largely from humble rural homes Knowing that poverty was their inescapable lot, such officers resented the political influence wielded by the rich and their hangers-on To the younger officers especially, the thought of a government run by corrupt politicians in the pay of rich *zaibatsu* was obnoxious It was not for such a government as this that the Emperor had been "restored" in 1868 There was need of another restoration—a "Showa Restoration"—which should take the government out of the hands of corruptionists and return it again to the Emperor He, no doubt, would place control where it properly belonged—in the hands of the army [5]

A flood of pamphlets, written by army officers and given currency by the army, placed the ideals of the militarists frankly before the people They demanded "clarification of national polity"—meaning an assurance that civilians should not again override the wishes of the services in military and naval matters—and repudiation of doctrines such as that of Professor Minobe, who had called the Emperor an "organ of the state " They preached the unity of Emperor and people and denied that in Japan there could be opposition between the interests of ruler and ruled They identified "national defense" with defense of whatever territory and resources Japan might need for her future development They revived the legendary slogan of Jimmu Tenno, *Hakko ichiu* ("eight corners under one roof"), and acclaimed Jimmu as a model for modern patriots They defended the army's program of conquest in China on the ground that the army had a right to "remove every cause that might menace the existence of the Empire," and that the Japanese people, active, diligent, and prolific, needed the resources of the new territories [6]

While army spokesmen with a gift for propagandist writing were developing these ideas, groups of young officers in both army and navy were dedicating their lives to the destruction of men who stood in the path of service policies, whether politicians, businessmen, bureaucrats, or even army officers The year 1932 witnessed a series of political assassinations Baron Takuma Dan, managing director of the Mitsui holding company, Finance

[5] *Showa* ("Enlightened Peace") was the reign name of the Emperor Hirohito

[6] The pamphlet literature is analyzed in Hugh Byas, *Government by Assassination* (New York, 1942), and in Kenneth W Colegrove, *Militarism in Japan*, World Affairs Books No 16 (Boston, 1936)

Minister Junnosuke Inouye, finally Prime Minister Inukai himself were struck down by youthful assassins—the Prime Minister by a group of nine young army and navy officers Presumably the Seiyukai cabinet had moved too slowly to satisfy the army radicals Other assassinations followed, climaxed by the army mutiny of February 26, 1936 Some 1400 troops, led by captains and lieutenants, left their Tokyo barracks at midnight and occupied the Parliament Building, the War Office, the Prime Minister's residence, and other key spots in the city They issued a manifesto, denouncing the *genro*, financiers, government officials, and political parties They had marked for death the Prime Minister, the Finance Minister, a high army official whose policies did not please them, and, most significantly, three of the men closest to the Emperor—the Grand Chamberlain, the Lord Keeper of the Privy Seal, and a former holder of that office It was reported that the venerable Prince Saionji was also on their black list

All but three of the intended victims escaped death by luck or stratagem The mutiny collapsed after a few days Seventeen of the ringleaders were tried by secret court-martial and shot The army must maintain discipline within its ranks, and it disavowed any intention of altering the form of government But in large measure the young officers had achieved their end From 1932, when the murder of Inukai destroyed the last Seiyukai cabinet, the army refused to support any party government, and since it could decline to name an Army Minister, no government could function without its support Parties continued to exist, to participate in elections, and to debate and vote in the Diet until 1940, but the majority party no longer controlled the cabinet The number of party men in successive cabinets dropped from eight in 1931 to none in the Hayashi cabinet of 1937 No subsequent cabinet contained more than two, and their number fell to zero again in the two Konoye cabinets of 1940 and 1941 and the Tojo cabinet of 1941 Their places were taken by bureaucrats and peers, generals, admirals, and businessmen, but the extremist element in the army had become the dominant force in government [7] Henceforth the policies that Japan followed were army policies the "China incident" (1937), the declaration of the "Co-Prosperity Spheres" of East Asia (1938) and Greater East Asia (1940), the Anti-Comintern Pact (1936) and the alliance with the Nazi-Fascist Axis (1940), Pearl Harbor (1941)

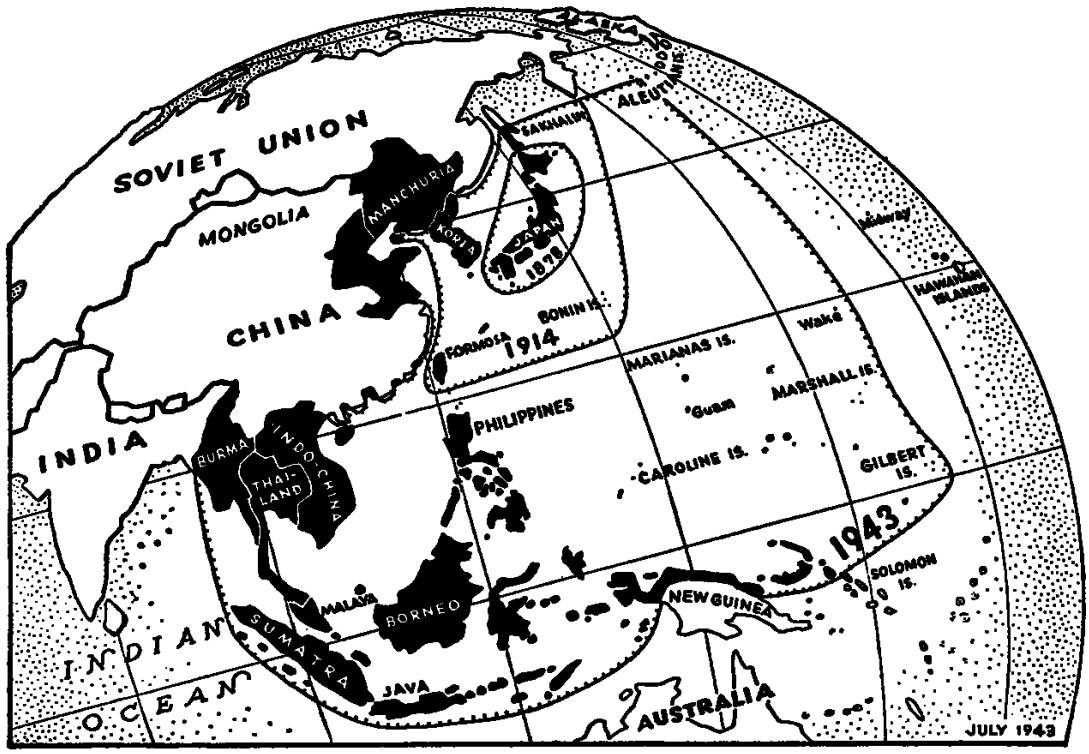
## *THE WAR GOVERNMENT*

As the army led or drove the government along this fatal career of imperialism, it tightened its grip upon the newly won territories and sought to take control of the nation's economic life

The setting up of the puppet state of Manchukuo in 1932 was followed by

[7] Kenneth W Colegrove, "Totalitarian Government in Japan," in Harold Zink and Taylor Cole (eds), *Government in Wartime Europe and Japan* (rev ed, Boston, 1942), p 251

the creation of a Manchurian Affairs Bureau, which was made a direct responsibility of the army and "became the chief organ of the Japanese Government for the control of Manchuria." [8] In 1938, when Japanese armies had overrun much of China, the Diet set up a China Affairs Board to exercise a similar control over policy in the occupied area. Though the Prime Minister was president, and the Foreign and Finance Ministers were members, of this board, the Army and Navy Ministers held key positions. Again, in 1942, strong army pressure induced the cabinet and Privy Council




Japan's Bid for World Domination. From *The Changing Far East*, by William C. Johnstone. (Foreign Policy Association, Headline Series, No. 41, p. 62. Reproduced with the permission of the Foreign Policy Association.)

to sanction the creation of a Greater East Asia Ministry, which absorbed the duties and powers of the Manchurian and Chinese Affairs Boards and took over from the Ministry of Overseas Affairs, which was now dissolved, the control of the South Sea Islands, old and new.[9] The Greater East Asia

[8] Hugh Borton, "The Administration and Structure of Japanese Government," *Department of State Bulletin*, December 24, 1944, p. 818. (Complete article, pp. 817-833).

[9] *Ibid.*, pp. 825-827. The Ministry of Overseas Affairs, established in 1927, had supervised the administration of Korea, Formosa, Karafuto (southern Sakhalin), Kwantung Leased Territory, and the South Sea Islands (i.e., the mandated Carolines, Marshalls, and Marianas). Korea and Formosa were now (1942) placed directly under the Minister for Home Affairs. Karafuto was given a local administration like Hokkaido's, resembling a prefecture but not so called. The Kwantung Leased Territory had since 1934 been under the Manchurian Affairs Bureau.

Ministry was apparently an adjunct of the armed services In the enormous area which came under its control—Manchuria, the conquered portions of China, and other conquests to the south and southeast—it assured military domination and reduced the authority of the Foreign Office to supervision of the purely formal functions of diplomats and consuls [10]

In their attempt to grasp control of the nation's economic life the military had to accept a kind of partnership with the *zaibatsu* Such had not been the army's intention when it seized power Emotionally it had no more use for capitalists than for politicians, and from its new preserve in Manchuria it tried to exclude the *zaibatsu*, relying at first, for the financing of necessary industrial developments, upon state capital and the efforts of small businessmen But the army soon discovered that more capital was needed than could be thus supplied and turned perforce to big business Avoiding the too celebrated Mitsui and Mitsubishi, army men called in a younger house, Nissan, which organized a Manchuria Development Company to take over stock in a variety of oil and mining enterprises There was reason to think, however, that Nissan was partly a front for Mitsui and Mitsubishi At any rate, when the army invited Nissan into Manchuria, it initiated a partnership with the capitalists which lasted through World War II [11]

Relations between business and government in Japan had always, as we have seen, been close and friendly, and their collaboration in a war economy now came easily Long before 1931 Japanese industry was highly "rationalized" Trade associations and cartels had been legalized and encouraged, and these organizations, whether technically in *zaibatsu* hands or otherwise, were convenient instruments for the direction of the nation's economy into channels desired by the military The occupation of Manchuria led to experiments in "planned economy," designed to gear together the economies of Japan and Manchukuo The further adventure in China in 1937 was followed by the creation of a Cabinet Planning Board With a directorship interlocking with that of the Manchurian Affairs Bureau, the Cabinet Planning Board—though it lacked full power to enforce its decisions—became "the most effective organization yet developed for the formation of a unified national policy" [12] Through its influence the Diet passed, in 1938, the National Mobilization Law, giving the government dictatorial powers, in the event of war, over all aspects of the national economy

Such powers were not used, however, to the disadvantage of the *zaibatsu*, but rather served to strengthen the hold of the latter upon the nation's economic life A Major Industries Association Ordinance of September, 1941, provided for control associations in the major industries, headed by former officers of the big corporations and cartels, all working under supervision

[10] *Ibid*, p 826
[11] Colegrove, "Totalitarian Government in Japan," pp 234-238
[12] Borton, *op cit*, p 824

of the Minister of Commerce and Industry These associations were to implement production schedules in war materials, prepared by the Cabinet Planning Board and approved by the cabinet When this arrangement proved unsatisfactory after a two-year trial, the army secured the creation of a Munitions Ministry The new ministry was given control of all "munitions companies" It took over the functions of both the Cabinet Planning Board and the control associations It was given control over the production and allotment of raw materials and electric power, over capital investment, the apportionment and wages of labor, and all other matters vital to the production of war materials Though some observers regarded the creation of the Munitions Ministry as a victory for the army over the *zaibatsu*, the *zaibatsu* were not displeased with the outcome They had, in fact, driven a hard bargain with the army Representatives of *zaibatsu* interests largely controlled the new ministry, and the policy which it pursued was in no way unfriendly to big business Ownership of industry, and for the most part its control, remained in private hands while the government assumed losses, guaranteed profits, and encouraged mergers to such an extent that *zaibatsu* monopoly in 1945 was more complete than in 1941 If, as has been asserted, the Munitions Ministry "coordinated the work of the Government far more than was possible heretofore," [13] the coordination was not at *zaibatsu* expense Whether the *zaibatsu* in general deliberately encouraged aggression and war is a debatable question That they greatly profited from these activities, down at least to the last months of the war, seems incontestable

The additions of the Greater East Asia and Munitions Ministries were not the only wartime changes in cabinet organization A Ministry of Welfare was established in 1938 A Board of Information, created September 24, 1937, and operating through the Home Affairs and Communications Ministries, "allowed only those policies acceptable to the Government to be disseminated" [14] The Ministry of Commerce and Industry was amalgamated with that of Agriculture and Forestry to form a new Ministry of Agriculture and Commerce Similarly the two Ministries of Communications and Railways were combined to form a single Ministry of Transportation and Communications After November, 1943, therefore, the cabinet comprised, in addition to the Prime Minister and certain ministers without portfolio, the heads of the following twelve departments Army, Navy, Foreign Affairs, Munitions, Home Affairs, Finance, Justice, Welfare, Education, Agriculture and Commerce, Transportation and Communications, Greater East Asia Affairs The

[13] *Ibid*, p 830 Borton takes the view that establishment of the Munitions Ministry was the capstone of army control The opposite view, which is here accepted as nearer the truth, is presented in two articles by T A Bisson, "Increase in Zaibatsu Predominance in Wartime Japan" and "The Zaibatsu's Wartime Role," *Pacific Affairs*, March, December, 1945, pp 55-61, 355-368 See also "Can We Trust a 'Zaibatsu' Japan?" *Amerasia*, October 20, 1944, pp 291-302

[14] Borton, *op cit*, p 824

Prime Minister might, of course, elect to head one of the departments The inclusion of ministers without portfolio (or ministers of state) had become standard practice, regularized by an ordinance secured by Prime Minister Fumimaro Konoye There were four such ministers in the Suzuki cabinet of 1945

The war also brought about significant changes in local government The whole area of the home islands, Karafuto, the Kuriles, and Okinawa was divided in July, 1943, into nine regional administrative districts In each district the most important prefectural city became the capital, and the governor of that prefecture became the president of the district council Each council consisted of the heads of eleven bureaus, the president, and a councilor appointed by the Tokyo government The district councils assumed, on the one hand, certain functions formerly carried out by the national government and, on the other, a portion of the responsibilities which had appertained to the prefectural or local governments With this degree of decentralization, regional and local governments might be expected to function more efficiently if military developments should disrupt centralized control [15]

Meanwhile—partly, no doubt, as a consequence of Japan's alignment with the fascist states of Europe—a movement for a single political party had developed In the summer of 1940, after Premier Konoye's proclamation of the "New Order for Greater East Asia," the old parties dissolved, and in their stead, under the sponsorship of the Prime Minister, appeared the Imperial Rule Assistance Association (Taisei Yokusankai) Its sponsors denied that it was to play the role of a political party Rather, said Konoye, it had the ancient Japanese function of carrying national policies to the people and keeping the government informed of the people's desires and grievances It was also designed, as its title suggests, to aid in preparing the Japanese people for the responsibility of managing their growing empire Nevertheless, in the elections of 1942, the association actively supported a list of candidates, and of the 466 members elected to the House of Representatives 378 had its endorsement Officered by government officials, elaborately organized with a secretariat of five bureaus in Tokyo and with branches throughout Japan as well as in Korea, Formosa, Karafuto, and the South Seas, the Taisei Yokusankai was described by its vice-president as "the pivot of all nationalistic activities" A companion organization, the Imperial Rule Assistance Political Society (Taisei Yokusan-Seijikai—known as IRAPS for short), was organized in May, 1942 While the association was to be chiefly concerned with

[15] *Ibid*, pp 827-828 Previously the urban prefecture of Tokyo had been abolished and the prefectural and municipal administrations combined to form Tokyo *To*, or Metropolis There now existed the nine regional districts, forty-three regular prefectures, two urban prefectures (Kyoto and Osaka), Tokyo Metropolis, and the Hokkaido and Karafuto administrative offices The regional administrative districts were abolished in the fall of 1945

"measures to stabilize the people's livelihood and further the war effort through measures dealing with production," the Political Society was designed to effect "closer relationship between the Army and the people, advise the government, and weigh the practicability of government-proposed measures to be applied throughout the Empire" Both organizations, writes one authority, were influential "in forcing the people of Japan to accept governmental policy and in maintaining a high standard of morale" [16] In the spring of 1945, a new "sure victory" party, the Great Japan Political Association (Dai Nippon Seijikai), was organized as a successor to IRAPS The key plank in its platform declared "We hereby pledge ourselves to exerting every ounce of national strength for the defense of our homeland and for increased fighting strength through voluntary and self-sacrificing activities" [17]

## *THE EMPEROR VOTES FOR PEACE*

Long before the "sure victory" party was formed, Japan's wiser statesmen knew that they were facing sure defeat The capture by American forces of the island of Saipan in July, 1944, was followed by the resignation of General Hideki Tojo's war cabinet and the appointment of General Kuniaki Koiso as Prime Minister Further Japanese defeats led in turn to Koiso's resignation in April, 1945, and the naming of a cabinet headed by the aged and conservative Admiral Kantaro Suzuki The Suzuki cabinet was a peace cabinet Army extremists were unrepresented The two army members were notable chiefly for their undeviating loyalty to the Emperor Otherwise, as an American analyst pointed out, the cabinet drew "its political motivation from the most solid elements of the court, navy and business circles" [18] Both Admiral Suzuki and Admiral Yonai, the Navy Minister, represented the belief, prevalent in high navy ranks, that the war was irretrievably lost and that peace should be made at the earliest moment possible Here navy leadership differed sharply from that of the army, which favored war *à outrance* The shift from army to navy dominance in the cabinet signified, therefore, a shift from a war policy to a peace policy [19] Nothing could better highlight the repudia-

[16] *Ibid*, p 825, Colegrove, "Totalitarian Government in Japan," pp 247-261 Some news dispatches described IRAPS as the "parliamentary wing" of the Imperial Rule Assistance Association and as Japan's sole political party New York *Times*, January 19, 1945, p 3, March 31, 1945, p 8

[17] New York *Times*, March 31, 1945, p 8

[18] T A Bisson, "The Suzuki Cabinet," *Far Eastern Survey*, May 9, 1946, pp 105-108

[19] The interrogation of Japanese naval officers by the U S Strategic Bombing Survey brought out evidences of serious friction between the army and navy The navy, it appeared, was sensitive on the point of the army's superior political influence, which enabled it to get what it wanted, sometimes at the expense of the navy The naval officers questioned had always doubted the ability of Japan to defeat the United States Admiral Yonai, who had been Prime Minister from January to July, 1940, testified " I firmly believe that, had I been Prime Minister at the time [1941], we probably would not have

tion of the army radicals than the fact that Prime Minister Suzuki himself had been, as Grand Chamberlain, one of the dignitaries attacked and wounded by the army mutineers of 1936

How had the change come about? The army extremists were obviously discredited by the failure of the war which they had inaugurated Had the Japanese government been a parliamentary one in the true sense, the Tojo cabinet and its successor would have been overturned by adverse votes in the Diet But nothing of that sort happened With the dissolution of political parties, the Diet had lost whatever degree of independence it had formerly possessed Nor did public opinion play any conspicuous part in the overturn The center of authority was in the elements around the throne—official, semi-official, and unofficial—and in the throne itself This we know from the postwar questioning of Japanese leaders by the United States Strategic Bombing Survey [20] Those who chiefly influenced the Emperor's decisions in the choice of the last wartime Prime Ministers and in the decision to seek peace were the Lord Keeper of the Privy Seal (Marquis Koichi Kido) and the ex-Premiers, or *Jushin*, successors of the *genro* "These ex-premiers could not enforce their views, but did apply persuasive and informed pressure on the Privy Seal and other Government leaders The Jushin also had interlocking membership with the Privy Council which approved important decisions in foreign policy, and individual Jushin were frequently close to the Emperor" [21]

The more far-seeing of the Emperor's advisers, both unofficial and official, knew by the end of 1944 that defeat was certain and that Japan would do well to seek at once the best terms obtainable Why did they not act then? The answer is that more time, more defeats for Japan, and the collapse of Germany were needed in order to discredit the war party so completely that it would accept a decision to surrender "Members of Japan's original war-making coalition, though no longer in full control, still had great strength within the top Army command, the middle ranks of both services, and the bureaucracy of the Government They constituted a distinct threat of revolt or a coup in the estimate of the civilian and Imperial household leaders" [22]

The final decisions for peace were made in a small and newly instituted

had this war" Questioned as to the basis of divergence between army and navy attitudes, he attributed it to a difference in education "The Army starts its education with young boys of 15 and 16 and from that early age teaches them nothing but war As a result, it follows as a matter of course that the Army develops a narrower vision, can't see as broadly as the Navy officers" United States Strategic Bombing Survey [Pacific], Naval Analysis Division, *Interrogations of Japanese Officials* (2 vols, n d), vol II, pp 313, 329-330

[20] U S Strategic Bombing Survey, *Japan's Struggle to End the War* (Washington, 1946)

[21] *Ibid*, pp 1-2

[22] *Ibid*, p 5

"inner cabinet"—a body set up in August, 1944, and known as the Supreme War Direction Council Its six regular members were the Premier and Foreign Minister, the Ministers of Army and Navy, and the chiefs of staff of the two services Other cabinet ministers were brought in when necessary, and the deputy chiefs of staff attended but did not vote The council had direct access to the Emperor and met at his call or upon its own initiative It made decisions in the customary Japanese fashion, not by majority vote but by general agreement [23] In assuring such agreement the Emperor performed perhaps the most important act of his official life

From the appointment of the Suzuki cabinet in April, 1945, it was the desire of both Emperor and Prime Minister to end the war as soon as possible The first move was to seek terms through Russia as an intermediary It was proposed to dispatch former Premier Konoye to Moscow, and the Emperor, essaying an unusually active role, called in Konoye "and secretly instructed him to accept any terms he could get and to wire these terms direct to the Emperor" [24] The approach to Moscow was rebuffed by the Soviet government, and from Potsdam on July 26, 1945, the heads of governments of the United States, Great Britain, and China announced their peace terms for Japan After this no member of the inner cabinet objected to ending the war, but when the question came on accepting the Potsdam terms and the later American interpretation of them, the body was repeatedly deadlocked, three to three, with the Army Minister and the two chiefs of staff voting in the negative Not even the atomic bomb at Hiroshima August 6, or the Russian declaration of War August 8 could persuade them to accept the proposed terms Under these circumstances the Prime Minister appealed to the Emperor, who twice gave his full support to the group who favored acceptance Thereupon the opponents yielded, and the decision thus reached unanimously in the Supreme War Direction Council was endorsed by the full cabinet Thus the Emperor, who either could not or would not prevent the war, played a decisive role in ending it [25]

[23] *Ibid*, pp 4-5

[24] *Ibid*, p 7

[25] *Ibid*, pp 6-9 Could the Emperor have prevented the attack on the United States in 1941 or any of the acts of aggression that preceded it? There seems to be no way of answering this question with finality It should be pointed out, however, that to overrule a set of defeated and discredited war lords in 1945 was a very different thing from overruling an undefeated and confident group in 1941 or 1931 It was Ambassador Grew's opinion that an attempt by the Emperor to prevent the war in 1941 would have resulted in his relegation to the impotent role which his ancestors had so long occupied at Kyoto "Had the Emperor rebelled in 1941, I have little doubt but that another shogunate—whether under General Tojo or some other military dictator—would have been established The military would have had their way, Emperor worship to the contrary notwithstanding" Joseph C Grew, "Dual Role of Hirohito," *United States News*, August 17, 1945, pp 33-34 See also Harold Wakefield, *New Paths for Japan* (New York, 1948), pp 170-172

Chapter 49

# Occupied Japan: Democratic Reconstruction

## *JAPAN SURRENDERS*

A JAPAN governed by Emperor, militarists, *zaibatsu*, and bureaucrats had precipitated war in the Far East Elimination of these groups, or a reduction of their influence, might perhaps produce a Japan which would be both democratic and peaceable On this hope rested a part of the surrender terms imposed upon defeated Japan, on this hope rested the policy of the occupying forces

Meeting in Berlin in July, 1945, President Truman and Prime Minister Attlee, with the approval of President Chiang Kai-shek (Russia was not yet at war with Japan), announced in the Potsdam Declaration the terms upon which they would accept Japan's surrender The declaration called for the limitation of Japanese sovereignty to the four islands of Honshu, Hokkaido, Kyushu, and Shikoku and such minor islands as might be determined, for the complete disarmament of Japanese military forces, for the complete destruction of Japan's war-making power, and for "stern justice" to "all war criminals," and it contained the following provisions, which pointed to important changes in the Japanese system of government

> There must be eliminated for all time the authority and influence of those who have deceived and misled the people of Japan into embarking on world conquest The Japanese Government shall remove all obstacles to the revival and strengthening of democratic tendencies among the Japanese people Freedom of speech, of religion, and of thought, as well as respect for the fundamental human rights shall be established The occupying forces of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government

On August 6 the atomic bomb was dropped on Hiroshima Two days later the Soviet government entered the war against Japan and adhered to the Potsdam ultimatum Japan was now in an utterly hopeless situation, and on

August 10 the Japanese government informed the United States that it was ready to make peace on the Potsdam terms, though "with the understanding that the said declaration does not comprise any demand which prejudices the prerogatives of His Majesty [the Japanese Emperor] as a Sovereign Ruler" Secretary of State James F Byrnes, speaking for the Allies, replied that from the moment of surrender the authority of the Japanese Emperor and government would be "subject to the Supreme Commander of the Allied powers," that the armed forces of the Allies would remain in Japan until the purposes set forth in the Potsdam Declaration were achieved, but that "The ultimate form of government of Japan shall, in accordance with the Potsdam Declaration, be established by the freely expressed will of the Japanese people"

It was upon the acceptance of this interpretation of the Potsdam terms that the Emperor finally cast the deciding vote, as related in the last chapter The terms were accepted on August 14, 1945, and hostilities thereupon ceased The Japanese people might retain their Emperor or get rid of him as they preferred Evidently he was not, in official Allied eyes, one of those who had "deceived and misled" the people of Japan into war and whose authority and influence "must be eliminated for all time" This retention of the Emperor was in part a concession to Japanese sentiment in the interest of an early peace, in part it was an acceptance of the theory that the Emperor symbol, so potent with the Japanese people, might be used as effectively for peace and reform in the future as it had been for militarism and war in the past

General Douglas MacArthur, who had been designated as Supreme Commander for the Allied Powers (his office was hereafter known as SCAP), landed at Atsugi Airport, near Yokohama, on August 30, and on September 2 formal surrender ceremonies took place on the deck of the battleship *Missouri* in Tokyo Bay Eventually the supreme commander was placed—nominally at least—under the authority of a Far Eastern Commission in Washington, composed of representatives of the eleven states[1] which had participated in the war against Japan, and he was assisted, in an advisory capacity, by an Allied Council for Japan, sitting in Tokyo and composed of the supreme commander or his deputy and representatives of the Soviet Union, China, and the British Commonwealth In reality, most decisions of importance were made by the supreme commander himself, with the consequence that he won such humorous sobriquets as "Star-spangled Mikado" and "Shogun MacArthur" Instructions prepared by the State, War, and Navy Departments informed the general that the authority of the Emperor and the Japanese government was subordinate to him as supreme commander, that control of Japan should be "exercised through the Japanese Government to the extent that such an arrangement produces satisfactory results", but that he might

[1] The USSR, Great Britain, United States, China, France, the Netherlands, Canada, Australia, New Zealand, India, and the Philippines

act directly if necessary, enforcing his orders "by the employment of such measures as you deem necessary, including the use of force"

Indirect rule, through the Japanese government, proved entirely workable, at least for the first four years of the occupation Directives were issued to that government, and reports and communications received from it, through a special agency set up by the Japanese government itself and known as the Central Liaison Office (C L O), which became, in the absence of normal diplomatic relations with other powers, a training ground for a new generation of Japanese diplomats [2] The operation of units of Japanese local government was observed and reported, but not directed, by 45 "civil affairs" teams of United States personnel stationed in the prefectures

## *OBJECTIVES OF THE OCCUPATION*

The military occupation of Japan and the framing and execution of occupation policies were from the first primarily responsibilities of the United States [3] Before the end of August, 1945, the State, War, and Navy Departments agreed on a statement of policy, and this document, approved by the President and entitled "United States Initial Post-Surrender Policy for Japan," was placed in General MacArthur's hands as a chart for his course as supreme commander This document is of such importance as a statement of occupation policy that it must be quoted and summarized at some length Part I, entitled "Ultimate Objectives," reads as follows

> The ultimate objectives of the United States in regard to Japan, to which policies in the initial period must conform, are
> (a) To insure that Japan will not again become a menace to the United States or to the peace and security of the world
> (b) To bring about the eventual establishment of a peaceful and responsible government which will respect the rights of other states and will support the objectives of the United States as reflected in the ideals and principles of the Charter of the United Nations The United States desires that this government should conform as closely as may be to principles of democratic self-government but it is not the responsibility of the Allied Powers to impose upon Japan any form of government not supported by the freely expressed will of the people
>
> These objectives will be achieved by the following principal means
> (a) Japan's sovereignty will be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor outlying islands as may be

[2] John M Maki, "The Role of the Bureaucracy in Japan," *Pacific Affairs*, December, 1947, p 398 (Complete article, pp 391-406) The surrender documents and many of those of the early occupation period are printed in *Occupation of Japan Policy and Progress*, Department of State Publication 2671, Far Eastern Series 17 (Washington, n d)

[3] Small contingents of British Commonwealth troops shared in the occupation, under MacArthur's command of course

determined, in accordance with the Cairo Declaration and other agreements to which the United States is or may be a party

(b) Japan will be completely disarmed and demilitarized The authority of the militarists and the influence of militarism will be totally eliminated from her political, economic, and social life Institutions expressive of the spirit of militarism and aggression will be vigorously suppressed

(c) The Japanese people shall be encouraged to develop a desire for individual liberties and respect for fundamental human rights, particularly the freedoms of religion, assembly, speech, and the press They shall also be encouraged to form democratic and representative organizations

(d) The Japanese people shall be afforded opportunity to develop for themselves an economy which will permit the peacetime requirements of the population to be met

Part II dealt with "Allied Authority" The subordination of the Japanese Emperor and government to the supreme commander was reiterated It would be "the right and duty" of the latter "to require changes in governmental machinery or personnel or to act directly" if the Japanese authorities should fail to meet his requirements

> This policy, moreover, does not commit the Supreme Commander to support the Emperor or any other Japanese governmental authority in opposition to evolutionary changes looking toward the attainment of United States objectives The policy is to use the existing form of Government in Japan, not to support it Changes in the form of Government initiated by the Japanese people or government in the direction of modifying its feudal and authoritarian tendencies are to be permitted and favored In the event that the effectuation of such changes involves the use of force by the Japanese people or government against persons opposed thereto, the Supreme Commander should intervene only where necessary to ensure the security of his forces and the attainment of all other objectives of the occupation

Part III dealt with political matters It declared, among other things, that Japan should have no "army, navy, air force, secret police organization, or any civil aviation", that former active exponents of militarism and militant nationalism would be excluded from office, that ultranationalistic or militaristic societies would be dissolved and prohibited, that militarism, ultranationalism, and para-military training would be eliminated from the educational system, that freedom of religious worship would be promptly proclaimed, though ultranationalistic and militaristic movements would not be permitted "to hide behind the cloak of religion", that the Japanese people would be encouraged "to become familiar with the history, institutions, culture, and the accomplishments of the United States and the other democ-

racies", that democratic political parties would be encouraged, that "laws, decrees and regulations which establish discrimination on grounds of race, nationality, creed or political opinion" would be abrogated, that "persons unjustly confined by Japanese authorities on political grounds" would be released, and that the judicial, legal, and police system would "be reformed as soon as practicable," and "thereafter shall be progressively influenced, to protect individual liberties and civil rights"

Part IV of the statement, although concerned with economic matters, contained several directives which had a bearing upon the operation if not the form of the future government of Japan "Encouragement shall be given and favor shown to the development of organizations in labor, industry, and agriculture, organized on a democratic basis" In order to strengthen the peaceful disposition of the Japanese people and to make difficult the use of economic activity for military ends, the supreme commander was directed (a) to exclude from important positions in the economic field "individuals who do not direct future Japanese economic effort solely towards peaceful ends, and (b) to favor a program for the dissolution of the large industrial and banking combinations which have exercised control of a great part of Japan's trade and industry"

## *BEGINNINGS OF GOVERNMENTAL REFORM*

The supreme commander acted promptly to implement the policies outlined by the United States government September 13, 1945, Japanese Imperial Headquarters was disbanded, and preparations were made for abolishing the War and Navy Departments and replacing them with civilian demobilization ministries The Greater East Asia Ministry was abolished The Board of Information was divested of its powers of censorship The Ministry of Home Affairs was stripped of much of its great authority, and the minister was removed (In 1947 the ministry was abolished) The office of Lord Keeper of the Privy Seal, which had largely controlled access to the Emperor, was abolished Of major importance was a directive of October 4, 1945, known as the "Japanese Bill of Rights" This directive required the Japanese government to abrogate and suspend at once all enactments which restricted freedom of thought, religion, assembly, or speech, "including the unrestricted discussion of the Emperor, the Imperial Institution and the Imperial Japanese Government," or which discriminated between persons "by reason of race, nationality, creed or political opinion" It required the government, further, to release all political prisoners, to abolish all agencies created to enforce any of the prohibited restrictions, to remove from office a large number of specified police officials, and to report to SCAP not later than October 15 all measures taken in consequence of the directive

A directive of November 6 accepted tentatively a Japanese proposal for

the dissolution of the "big four" holding companies—Mitsui, Mitsubishi, Yasuda, and Sumitomo—but informed the Japanese government that it was not the intention of SCAP to stop with these four companies The Japanese government was requested, therefore, to present for approval "plans for the dissolution of industrial, commercial, financial and agricultural combines in addition to those mentioned in the communication," as well as its program for preventing private monopoly and restraint of trade and otherwise for providing "equal opportunity to firms and individuals to compete in industry, commerce, finance and agriculture on a democratic basis" The government was also required to take steps "to terminate and prohibit Japanese participation in private international cartels or other restrictive private international contracts or arrangements"

On December 15, 1945, a directive from SCAP decreed the abolition of state Shinto, requiring a complete divorce of religion from the state, prohibiting the use of public funds for the support of religious shrines, and forbidding to any religion the propagation or dissemination of militaristic or ultranationalistic ideology Schools supported to any degree by public funds must not inculcate Shinto doctrine or use textbooks that did so, or spread a belief in the superiority of the Japanese Emperor, people, or islands In harmony with this last reform was the Emperor's repudiation of the notion of his divinity There was no directive in this case, though there may have been prodding from SCAP Whatever the cause, in his New Year's Rescript, January 1, 1946, the Emperor informed the world "The ties between us and our people have always stood upon mutual trust and affection They do not depend upon mere legends and myths They are not predicated on the false conception that the Emperor is divine and that the Japanese people are superior to other races and fated to rule the world"

SCAP's initial series of reform measures culminated in two directives of January 4, 1946 One of these required the abolition of certain nationalistic or terroristic societies (the Black Dragon Society among them) and the prohibition of any societies or political parties whose purpose was to oppose the occupation or to support an aggressive policy on the part of Japan No political party was to be allowed to organize or function until it had filed with the government its name, purposes, offices, principal officers, and other pertinent information

The second of these directives instituted the "great purge" Officially captioned "Removal and Exclusion of Undesirable Personnel from Public Office," it began by quoting the "elimination" paragraph of the Potsdam Declaration It then ordered the removal and exclusion from public office of all persons who had been

a Active exponents of militaristic nationalism and aggression,
b Influential members of any Japanese ultranationalistic, terroristic, or secret patriotic society, its agencies or affiliates, or

c Influential in the activities of the Imperial Rule Assistance Association, the Imperial Rule Assistance Political Society or the Political Association of Great Japan

The supreme commander reported in February, 1946, that the government's action in compliance with the purge directive had been "unequivocal, firm and extensive" It had disqualified about 90 percent of the members of the Diet for reelection and had ordered the dissolution of 120 political organizations The Japanese press estimated that about 150,000 persons would be affected Later directives extended the disqualification of purged persons to their relatives within the third degree and also broadened the categories of "public office" to which purged persons were ineligible The "screening" process was carried out by municipal and prefectural committees, all topped by a central committee All members of these committees were Japanese, but their work was watched by American officials Among numerous criticisms of the procedure were charges that application of the purge to relatives was undemocratic, that decisions were politically motivated, that extension of the process to insignificant individuals detracted from its moral effect, and that its application to industrial leaders and managers was retarding Japanese recovery[4] By June, 1948, when the screening process was completed, the committees had investigated 717,415 individuals, and had barred from office for life 8781 officials and 193,180 nonofficeholders, most of the latter category being former military or naval officers

## *MAKING A NEW CONSTITUTION*

Neither the Potsdam Declaration, the Byrnes interpretation of surrender terms, nor the statement on Initial Post-Surrender Policy had contained any clear requirement that Japan should make over or even amend its constitution, though the last-mentioned statement had said that changes in the form of government "in the direction of modifying its feudal and authoritarian tendencies" were to be "permitted and favored" General MacArthur, however, in his first meeting with Premier Shidehara, October 11, 1945, remarked that the reforms which Japan must undertake were so fundamental that they "will unquestionably involve a liberalization of the constitution" Defects of

[4] Harold S Quigley, "The Great Purge in Japan," *Pacific Affairs*, September, 1947, pp 299-308, Russell Brines, *MacArthur's Japan* (Philadelphia, 1948), p 190 Mark Gayn, an American correspondent in Tokyo, made the following comment in December, 1946 "The purges have become a shameful pretense Thousands of men subject to the purge remain in office, and thousands of others function as the hidden government, flouting the power and authority of the United States" Mark Gayn, *Japan Diary* (New York, 1948), p 475 There is much more to the same general effect in Gayn's volume On the functioning of purged politicians as part of a "hidden government" see also Harry Emerson Wildes, "Underground Politics in Post-War Japan," *American Political Science Review*, December, 1948, pp 1149-1162—one of several articles edited by Harold S Quigley under the title, "Post-War Politics in Japan"

the existing structure, as pointed out by SCAP, included "the limited powers of the Diet and the subordinate position of the House of Representatives, the absence of a true Bill of Rights, the power of the extra-constitutional bodies, the direct responsibility of the cabinet to the Emperor, the special position of the War and Navy Ministers, the lack of a truly independent judiciary, and the inordinate powers of the Emperor" [5]

Two official Japanese bodies were accordingly named to consider constitutional revision—one headed by Dr Joji Matsumoto, minister without portfolio in the Shidehara cabinet, the other under Prince Konoye in behalf of the Privy Council—and it was reported that a body of scholars and writers calling themselves the Society for the Study of Constitutional Revision was working independently for the same object What became of these efforts is not clear Apparently the task was taken over by the party organizations, for in February, 1946, it was reported that the Liberal, Progressive, and Social Democratic parties had all prepared drafts which were essentially similar, all reducing the Emperor "to political impotence, leaving him only formal and ceremonial functions as the symbol and traditional head of the nation" All three, it was reported, would make the cabinet responsible to the Diet, provide an independent judiciary, abolish the Privy Council and administrative courts, and substitute for the House of Peers a House of Councilors, which might exercise a suspensive veto over bills passed by the House of Representatives but might not overrule budget decisions The three parties, in other words, were pointing in the direction of a constitutional monarchy on the British model The small Communist party, on the other hand, proposed to set aside the Emperor system, placing sovereignty frankly in the hands of the people [6]

For reasons not as yet satisfactorily explained, the supreme commander now took the task of constitution making out of the hands of the Japanese and turned it over to the Government Section of SCAP Headquarters, headed by Brigadier General Courtney Whitney, with instructions on only two specific points

1 The Emperor was to be retained as a mere symbol, stripped of his divinity, and sovereignty was to be vested in the people

2 "Japan was to renounce war for all time, and to forsake permanently the right to establish armed forces" [7]

[5] Supreme Commander for the Allied Powers, *Summation of Non-Military Activities in Japan and Korea* [No 1], for September-October, 1945, pp 7, 24 These monthly summations will hereafter be cited as SCAP, *Summation*, with number and date With No 6, March, 1946, *Korea* is dropped from the title

[6] *Ibid*, No 5, February, 1946, pp 37-38

[7] D N Rowe, "The New Japanese Constitution—I," *Far Eastern Survey*, January 29, 1947, pp 13-17 General MacArthur, in a communication to the Far Eastern Commission dated March 29, 1946, stated that the draft constitution "represents the work of men from many different groups and many different affiliations" *Activities of the Far Eastern Com-*

General Whitney and his staff completed their assignment in about three weeks and presented their draft to the Japanese government, which reluctantly accepted it It was published on March 6, 1946, with an imperial rescript commanding revision of the old constitution and an approving statement from General MacArthur A revised draft was submitted by the Japanese government to SCAP on April 22 and, with minor changes, presented to the Diet by Prime Minister Yoshida in June The supreme commander, in a statement issued June 21, said "The Government draft now before the Diet is a Japanese document and it is for the people of Japan, acting through their duly elected representatives, to determine its form and content—whether it is to be adopted, modified or rejected " Both houses of the Diet, after contributing minor amendments, passed the constitution by overwhelming votes, it was approved by the Privy Council in a special session attended by the Emperor and promulgated on November 3, 1946, birthday of the Emperor Meiji, to take effect six months later—May 3, 1947 [8]

## *FEATURES OF THE NEW CONSTITUTION*

A remarkable document however viewed, the constitution of Japan, effective May 3, 1947, loses some of its startling character when we reflect that it was drawn up at SCAP Headquarters in Tokyo Although certain of its features are novel, it consists essentially of American concepts, often couched in American phraseology, engrafted upon a Japanese framework It expresses a philosophy of government which would be more congenial to Thomas Jefferson or Abraham Lincoln than to Hirobumi Ito

### Popular Sovereignty

"We, the Japanese people," declares the preamble, "acting through our duly elected representatives in the National Diet, do proclaim that sovereign power resides with the people and do firmly establish this Constitution Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people "

### The Emperor

The Emperor still, perhaps, reigns, he does not govern, even in theory, nor is there any assertion that his line is "unbroken for ages eternal" "The

*mission* Report by the Secretary General February 26, 1946-July 10, 1947, Department of State Publication 2888, Far Eastern Series 24 (Washington, 1947), p 61

[8] The official English version of the *Constitution of Japan* in its final form was published as Department of State Publication 2836, Far Eastern Series 22 The first draft, that of March 6, 1946, was published in the New York *Times*, March 9, 1946 The revised draft of April 22, 1946, is printed in *Occupation of Japan Policy and Progress*, Department of State Publication 2671, Far Eastern Series 17 (Washington, n d ), pp 117-132

Emperor," we read in Chapter I, "shall be the symbol of the State and of the unity of the people, *deriving his position from the will of the people with whom resides sovereign power* The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor The Emperor shall perform only such acts in matters of state as are provided for in this Constitution and *he shall not have powers related to government*" (Italics supplied) He formally appoints the Prime Minister, but only after the latter has been chosen by the Diet, he also appoints the Chief Judge of the Supreme Court, upon nomination by the cabinet With the advice and approval of the cabinet he promulgates laws, treaties, constitutional amendments, etc, convokes the Diet, dissolves the House of Representatives, proclaims general elections, attests appointments and dismissals, amnesties, and commutations of punishment, awards honors, receives foreign ambassadors and ministers, and performs other functions of a formal and ceremonial character He does nothing without the approval of the cabinet, and the cabinet is responsible to the Diet, not to him

Succession to the throne is subject to regulation by the Diet All property of the imperial household is declared to belong to the state, and all imperial household expenses must be appropriated by the Diet Without authorization by the Diet, no property may be given to or received by the imperial household, nor gifts made by it

### Renunciation of War

One unprecedented feature of the new constitution is thought by those "in the know" to have originated with General MacArthur personally [9] "We, the Japanese people," says the preamble, " have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world We recognize that all peoples of the world have the right to live in peace, free from fear and want" In pursuance of these lofty aims the Japanese people, in Chapter II, "forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes" Hence, "land, sea, and air forces, as well as other war potential, will never be maintained The right of belligerency of the state will not be recognized"

### Rights and Duties of the People

Unlike the customary bill of rights, Chapter III of the constitution sets forth certain of the duties as well as the rights of Japanese nationals Only three duties are mentioned, however—the obligation (as well as the right) to work, to see that one's children receive an education, and to pay taxes The catalogue of rights, in contrast, is long and elaborate, going considerably

[9] Rowe, *loc cit*

beyond what is customary in Western lands Among the rights listed in the thirty-one articles of Chapter III are the to-be-expected freedoms of thought, conscience, religion, speech, press, petition, assembly, access to the courts, speedy trial, confrontation of witnesses, possession of private property, and freedom *from* involuntary servitude, deprivation of life or property "except according to procedure established by law," arbitrary arrest or detention, torture, *ex post facto* prosecutions, etc Somewhat more "advanced" as constitutional guarantees are the following freedom from discrimination "in political, economic or social relations because of race, creed, sex, social status or family origin", universal adult suffrage and secret ballot, the right to sue the state or a public entity for damage through illegal action of any official or for redress after acquittal of a charge on which one has been arrested or detained, academic freedom, "the right to maintain the minimum standards of wholesome and cultured living", the right of all people "to receive an equal education correspondent to their ability", the right of workers to organize and bargain collectively Other significant clauses of this chapter abolish the peerage, forbid state support of religion, and declare that "marriage shall be based only on the mutual consent of both sexes "

## The Diet

"The Diet shall be the highest organ of state power, and shall be the sole law-making organ of the State " No longer an "Imperial Diet," it is, since the Diet Law of March, 1947, officially called the "National Diet " The same law freed the Diet from its former subserviency to the Emperor and cabinet, assured to individual members equal opportunity with the government to have their bills considered, provided a new freedom of debate, accorded the franking privilege and such perquisites as office space and clerk hire, for which members had previously depended either upon party funds or upon their own pocketbooks [10]

The National Diet consists, like its predecessor, of two houses, but the place of the House of Peers is now occupied by an elective House of Councilors The constitution provides that members of the House of Councilors shall be elected for six-year terms, election of half the members taking place every three years, but the number of members and the method of their election were left to be fixed by law The House of Councilors Election Law of 1946 fixed the membership of the House at 250, of whom 150 are chosen from election districts made up of the prefectures and the other 100 are chosen at large by the entire electorate Each voter casts two ballots, one for a prefectural and one for a national councilor Candidates for the House of Councilors must be at least thirty years of age

[10] Justin Williams, "The Japanese Diet under the New Constitution," *American Political Science Review*, October, 1948, pp 927-939 This article is one of three edited by Harold S Quigley under the title "Post-War Politics in Japan "

Members of the House of Representatives are elected for four-year terms, which may, however, be terminated by dissolution of the House before the end of the four-year period The Election Law of March, 1947, established the membership of the House at 466 and increased the number of election districts from the previous fifty-three to 117 A candidate may now run in only one district but may select that district without regard to residence Each elector votes for but one candidate though his district may be entitled to several members

Though qualifications of members of both houses, and of their electors, may be fixed by law, the constitution stipulates that "there shall be no discrimination because of race, creed, sex, social status, family origin, education, property or income" Members of both houses are chosen on a basis of universal adult suffrage In December, 1945, the old Diet had admitted women to the ballot, and had lowered the voting age from twenty-five to twenty and the age for candidates for the House of Representatives from thirty to twenty-five Members of the Diet may not be held liable outside the Diet for speeches, debates, or votes in their respective houses, and, except as otherwise provided by law, they are exempt from arrest while the Diet is in session Members of both houses are entitled to receive appropriate salaries No person may be a member of both houses simultaneously

The Diet is required to meet at least once annually in ordinary session The cabinet may determine to convoke it in extraordinary session, and must do so upon the demand of one-fourth or more of the members of either house Dissolution of the House of Representatives must be followed within forty days by a general election of members of that house, and the Diet must be convoked within thirty days after the date of the election When the House of Representatives is dissolved, the House of Councilors is closed The latter may be convoked by the cabinet in time of national emergency, but any measures which it takes become null and void unless agreed to by the House of Representatives within ten days after the opening of the next session of the Diet

Although both houses are elective, the framers of the constitution evidently regarded the House of Representatives as the more authentic mouthpiece of the sovereign people, and the relations of the two houses are more nearly analogous to the relations of the British Houses of Commons and Lords than to those of the House of Representatives and Senate of the United States A bill passed by the House of Representatives and rejected by the House of Councilors, or not acted upon by the latter within sixty days, becomes law when passed a second time by the House of Representatives by a vote of two-thirds or more of the members present If the two houses disagree upon the budget or upon approval of a treaty, and if a joint committee of the two houses fails to reach agreement, or if the House of Councilors fails to take action within thirty days, "the decision of the House of Representatives

shall be the decision of the Diet" The same procedure holds in the selection of a Prime Minister, except that in this case the House of Councilors can delay the decision only ten days instead of thirty

### The Cabinet

Executive power is vested in a cabinet consisting of a Prime Minister and other ministers of state, all of whom must be civilians The Prime Minister is designated by the Diet from among its members He appoints and may remove the other ministers of state, but a majority of them must be chosen from among the members of the Diet The Prime Minister, and other ministers of state whether members of the Diet or not, may appear in either house to speak on pending bills, and must appear to give answers or explanations when either house requires their presence The cabinet is "collectively responsible to the Diet" It would be more accurate to say that it is collectively responsible to the House of Representatives, since passage by that house of a resolution of nonconfidence, or rejection of a resolution of confidence, must be followed either by resignation of the cabinet en masse or by dissolution of the House of Representatives and a new election The cabinet also resigns en masse when the post of Prime Minister is vacant or after a general election An outgoing cabinet, however, continues its functions until a new Prime Minister is appointed

The Prime Minister submits bills to the Diet, reports to it on national affairs and foreign relations, and "exercises control and supervision over various administrative branches" The cabinet, in addition to general administrative functions, administers the laws, manages foreign affairs, concludes treaties, subject to approval by the Diet, administers the civil service, prepares the budget, enacts cabinet orders to implement provisions of the constitution and the laws, and decides such matters as grants of amnesty, commutation of punishment, reprieve, and restoration of rights "All laws and cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister" Ministers of state are not subject to legal action without the consent of the Prime Minister

### The Judiciary

The constitution vests all judicial power in a Supreme Court and such inferior courts as may be established by law Extraordinary tribunals are prohibited, and no organ or agency of the executive may be given final judicial power The Chief Judge of the Supreme Court is designated by the cabinet and appointed by the Emperor The other Supreme Court judges are appointed by the cabinet Judges of the inferior courts are appointed for ten-year terms by the cabinet from a list of persons nominated by the Supreme Court Judges may be removed from office only by impeachment (machinery for which is to be provided by the Diet), or if "judicially declared mentally

or physically incompetent to perform official duties" Judges of the Supreme Court, however, are subject to a novel species of popular recall At the first general election of the House of Representatives after the appointment of the judges, and at ten-year intervals thereafter, such appointment shall be "reviewed by the people," and "when the majority of the voters favors the dismissal of a judge, he shall be dismissed" [11]

The age of retirement of Supreme Court judges is to be fixed by the Diet The power of judicial review is established by Article 81, which declares "The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act" All trials involving political offenses, the press, or rights of the people under the bill of rights must be conducted in public In other cases when a court holds unanimously that publicity would be dangerous to public order or morals, trials may be conducted privately Otherwise, the determination of rules of procedure and practice for the entire judicial system is left to the Supreme Court, which may, however, delegate to the inferior courts the power to make their own rules

Before the end of 1947 a Chief Judge and fourteen associate judges of the Supreme Court had been appointed, and the Diet had provided for eight district high courts and for 1772 judges of inferior courts The filling of these judgeships was in progress

### Finance

The Diet is given complete authority over taxation and expenditures No new taxes may be imposed or existing ones modified except by law or under conditions prescribed by law, and no money shall be spent or public obligations contracted except as authorized by the Diet "No public money or other property shall be expended or appropriated for the use, benefit or maintenance of any religious institution or association, or for any charitable, educational or benevolent enterprises not under the control of public authority" The cabinet must report to the Diet and the people at least annually on the state of national finances, and an audited account of revenues and expenditures for each fiscal year must be submitted to the Diet during the succeeding fiscal year

### Local Self-Government

"Local Self-Government," serving as the title of Chapter VIII of the constitution, is suggestive of radical change in the hitherto highly centralized Japanese system Regulations concerning organization and operation of local units of government are left to be fixed by law, but "in accordance with the

[11] In the election of January 23, 1949, Japanese voters emphatically endorsed the incumbent personnel of the Supreme Court More than 14,500,000 votes were cast against the recall of any justice, and adverse votes totaled about 500,000 New York *Times*, January 26, 1949, p 11

principle of local autonomy." It is provided, further, that local entities "shall establish assemblies as their deliberative organs," that their chief executive officers as well as the members of their assemblies shall be popularly elected, and that "local public entities shall have the right to manage their property, affairs and administration and to enact their own regulations within the law."

The Diet, even before approving the new constitution, had enacted legislation to give effect to its principles in local government. A group of laws passed September 20, 1946, provided for popular election of local executives, from governors of prefectures down to the chiefs of villages and wards, gave local assemblies the right to choose their officers and ended the power of the central government to dissolve the assemblies or annul their acts, introduced initiative, referendum, and recall in local government, instituted a more democratic plan for the supervision of elections, and limited the right of popularly elected bodies to hold secret sessions.[12] This legislation, the supreme commander announced, "strikes the bonds which have prevented full emergence of the nation's democratic forces and prepares the way for eventual full realization of the most lofty ideals of a democratic society."

Police administration, too, was decentralized, though not to the same degree as other functions of government. By March, 1948, autonomous police forces, under locally appointed public safety commissions, had been established in all of Japan's 1605 municipalities. A Police Reorganization Law, however, which went into effect in that same month, placed the entire police system under the supervision of a National Public Safety Commission. This body consists of five members, who are neither career officials nor former police administrators, appointed by the Prime Minister with the consent of the Diet for five-year terms. Not more than two of the five may be members of any one political party. The commission has full responsibility for administering the national rural police. In times of emergency the Prime Minister may assume control of the rural police and of all or part of the municipal systems if in his judgment such action is necessary for the preservation of peace and public order. The reorganized police are responsible for the enforcement of all laws of Japan, national as well as local.[13]

The Neighborhood Associations *(tonari-gumi)*, ancient local groupings which had been revived during the war and had served effectively as agencies for law enforcement, air-raid defense, bond selling, rationing, espionage, thought control, etc., were divested of their official and compulsory character and became local entities with voluntary membership and elective officers.[14]

[12] SCAP, *Summation*, No. 12, September, 1946, pp. 20-21.

[13] *Ibid.*, No. 29, February, 1948, pp. 51-53, No. 30, March, 1948, pp. 3, 4, 39.

[14] *Ibid.*, No. 16, January, 1947, pp. 36-38. See also John W. Masland, "Neighborhood Associations in Japan," *Far Eastern Survey*, November 20, 1946, pp. 355-358; R. J. D. Braibanti, "Neighborhood Associations in Japan and Their Democratic Potentialities," *Far Eastern Quarterly*, February, 1948, pp. 136-164.

**Amendments**

The procedure for amending the constitution is simple and relatively easy Amendments may be initiated by the Diet through the concurrent vote of two-thirds or more of all the members of each house and ratified by the voters at a special election, or such election as the Diet may specify, by a majority of all votes cast

**The Supreme Law**

"This Constitution," declares Chapter X, Article 98, "shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity The treaties concluded by Japan and established laws of nations shall be faithfully observed "

## *THE FAR EASTERN COMMISSION AND THE CONSTITUTION*

The members of the Far Eastern Commission, sitting in Washington, were evidently taken by surprise by the publication in March, 1946, of the first draft of the proposed constitution In several communications to the supreme commander the commission voiced its fear that the Japanese people were being rushed into the acceptance of the new document without adequate time for study or adequate opportunity to express their will The commission's protests failed to delay the submission of the constitution to the Diet or to bring about a popular referendum upon it, but certain suggestions made by the commission in a document called "Basic Principles for a New Japanese Constitution" were embodied in the constitution in the form of amendments added by either the House of Representatives or the House of Peers Such amendments were the guarantee of "universal adult suffrage" together with the barring of "education, property or income" as qualifications for members of the Diet or their electors, the requirement that the Prime Minister and a majority of the ministers of state be members of the Diet and that all be civilians, the declaration that all imperial household property shall be property of the state Most of the other features named by the commission as "basic" were included in the first draft of the constitution or in the revised one finally sent to the Diet The constitution, therefore, included virtually all the "basic principles" listed by the Far Eastern Commission

Still dissatisfied either with the constitution itself or with the manner in which it had been "put over," the Far Eastern Commission announced that at a time not less than one year or more than two years after going into effect, the constitution would be "reviewed" by the Diet and by the commission itself Such review would give the Japanese people an opportunity to reconsider the constitution "in the light of the experience of its working," and would enable the commission to determine whether it fulfilled the terms of the Potsdam Declaration "and other controlling documents " The commission

warned, furthermore, that it might require a referendum as a means of determining "whether the Japanese constitution is an expression of the free will of the Japanese people" The time for the proposed review would be in the year beginning May 3, 1948,[15] but May, 1949, came and went and there had been no such review by either the Diet or the Far Eastern Commission Apparently the commission had decided to accept the constitution as an accomplished fact[16]

[15] The F E C's communications and policy statements are printed in *Activities of the Far Eastern Commission, February 26, 1946-July 10, 1947*, pp 63-68 The amendments added by the House of Representatives and House of Peers respectively are given in SCAP, *Summations*, No 11, August, 1946, pp 19-26, and No 13, October, 1946, p 19 Not all the amendments originated in the F E C, e g, the obligation to work, liability to taxation, the right to "the minimum standards of wholesome and cultured living," the right of an acquitted person to sue the state for redress after arrest or detention

[16] New York *Times*, May 15, 1949

Chapter 50

# *Occupied Japan: Parties and Politics*

## *PARTIES IN POSTWAR JAPAN*

JAPAN'S political parties, it will be recalled, had disbanded in 1940 No sooner was the war over than party activity began to stir again The Great Japan Political Association (Dai Nippon Seijikai), successor to the Imperial Rule Assistance Political Society, was dissolved at a meeting in the House of Representatives on September 14, 1945 By November at least four parties were organized or organizing There was considerable shuffling and reshuffling of prewar party elements, but eventually most of the former Minseito constituents came to rest in the new Progressive (Shimpoto)—later Democratic (Minshuto)—party, while the new Liberal party (Jiyuto) took over most of the former Seiyukai adherents Like their predecessors, these new parties were "bourgeois" in composition and outlook Both were conservative Both favored retention of the Emperor The Progressives were, for the time being, considered somewhat more to the right than the Liberals, and likewise closer to the *zaibatsu*, though at the same time more willing to see retention of government controls over the economy The Liberal party, led by Ichiro Hatoyama until he was "purged" and thereafter by Shigeru Yoshida, advocated such liberal reforms as woman suffrage but maintained that the existing constitution was sufficiently democratic Although willing to accept reorganization of the House of Peers and Privy Council, it advocated functional rather than structural changes in the form of government In economics, it demanded a free enterprise system In the words of a commentator for SCAP, it seemed "patterned after a Victorian British model" The Social Democratic party (Shakaito), successor to the various proletarian parties of prewar Japan, was a loose combination of right- and left-wing laborites, together with a sprinkling of "intellectual utopians and religious idealists" Tetsu Katayama, former Diet member, labor lawyer, and Christian, was destined to become the party's leader Though holding only fifteen seats in the Diet (as of October-November, 1945), the party exerted an influence out of proportion to its numbers Planks from its platform embodied in the 1945 Election Reform Law were woman suffrage and reduction of the voting

age to twenty The Social Democrats demanded fundamental land reform and were ahead of the other parties in presenting programs for combating inflation and the housing shortage The Communist party (Kyosanto) alone attacked the institution of Emperor, forcing "discussion on matters which were generally considered undebatable" Communists professed, however, to be opposed to the use of violence and to any form of dictatorship Their immediate objective was a "bourgeois democratic revolution" by "peaceful and democratic means" and the establishment of a republic They would, so they declared, preserve rights of private ownership, with the exception of large landholdings, which should be confiscated, and capitalist monopolies, which should be governed by management and labor jointly They urged lower farm rents, a minimum wage, factory laws, old-age insurance, equal rights for women Japan's Communist party was still in the "democratic front" phase There were, in addition, a number of minor parties, and many members of the Diet were independents, acknowledging no party affiliation

Postwar parties continued to be, like their predecessors, small and exclusive organizations directed by the party bosses, who might function in the open or, if they had been purged, behind the scenes Ordinary party members, in the Diet or outside, had no voice in determining policies They followed the party line—or they resigned or were expelled This was as true under the new constitution as under the old Having no counterparts of the state and county party branches so conspicuous in the United States, Japanese politicians made alliances with groups *(oyabun)* led by local bosses and often composed of gangsters of different types, whose function was to deliver the votes, for a consideration Such arrangements required money, and money was obtained, much as in the old days though more clandestinely, from business interests with axes to grind, ranging from legitimate enterprises to black-market operators [1]

## *ELECTIONS AND CABINET CHANGES*

Prince Higashi-kuni, who had become Prime Minister on August 16, 1945, to carry through the surrender policy, resigned on the following October 5 and was succeeded by Baron Kijuro Shidehara, memorable for his attempts as Foreign Minister to pursue a policy of good faith and moderation in 1924-1927 and 1929-1931 In the face of growing difficulties, both political and economic, Shidehara held his post until May, 1946 In January the supreme commander

[1] This summary of the party situation in the winter of 1945-1946 is based on SCAP, *Summations*, Nos 1, 2, and 5, September, October, November, 1945, February, 1946, Kenneth K Kurihara, "Japan's New Diet," *Far Eastern Survey*, May 22, 1946, pp 145-148, and the following articles in the *American Political Science Review*, October and December, 1948 Kenneth E Colton, "Pre-War Political Influences in Post-War Conservative Parties," pp 940-957, John Saffell, "Japan's Post-War Socialist Party," pp 957-969, Harry Emerson Wildes, "Underground Politics in Post-War Japan," pp 1149-1162 These are three of several articles edited by Harold S Quigley under the heading "Post-War Politics in Japan," I (October), II (December)

had called for a general election in the spring for members of the House of Representatives The election was held April 10, 1946 All important parties except the Communists endorsed the proposed draft constitution, which had been published in March Almost 3000 candidates competed, and 72 1 percent of all registered voters participated For the first time women and young men between twenty and twenty-five voted in a national election Thirty-eight women won seats in the House of Representatives "For the first time in decades," SCAP proclaimed, "Japan had a free, fair and just election " The Japanese press commented favorably upon the unwonted absence of government interference at the polls The election produced the following line-up in the House of Representatives

| | |
|---|---|
| Liberals | 140 |
| Progressives | 93 |
| Social Democrats | 92 |
| People's Cooperatives | 14 |
| Communists | 5 |
| Minor parties | 38 |
| Independents | 82 |
| Vacancies | 2 |
| Total | 466 |

The president of the Liberal party, Ichiro Hatoyama, would naturally have become Prime Minister, but he was barred by SCAP as "an undesirable person" who "has consistently supported Japan's acts of aggression " Shigeru Yoshida, another Liberal leader, succeeded Shidehara in May, 1946 He was supported by a combination of Liberals and Progressives with some assistance from minor groups A drift away from small parties and independents raised the strength of the Liberals to 150, of the Progressives to 106 Together they commanded more than a majority of the House membership of 466

To the Yoshida cabinet fell the responsibility of seeing the new constitution through the Diet The cabinet was conservative—a "*zaibatsu* cabinet" it has been called by leftist sympathizers [2]—but was approved by SCAP, which interposed in its behalf when its continuance in office was endangered by attacks from organized labor, Social Democrats, and Communists By the beginning of 1947, however, it was apparent that large groups of Japanese people—especially the city dwellers, who felt most keenly the effects of inflation, black market, and housing shortage—were dissatisfied with the conservative ministry Elections to implement the new constitution would have been necessary in any event On February, 7, 1947, the supreme commander directed the government to hold such elections in April [3]

[2] "Ersatz Democracy for Japan," *Amerasia,* October, 1946, pp 111-124 Shidehara, who remained in Yoshida's cabinet as minister without portfolio, was a son-in-law of the head of the Mitsubishi trust, and other members had similar big business connections See L K Rosinger, "The Occupation of Japan," *Foreign Policy Reports,* May 15, 1947

[3] Lindesay Parrott in New York *Times,* February 9, 1947

The elections of April, 1947, would result in the choice of the first House of Representatives and House of Councilors to function under the new constitution In these elections, also, would be chosen new local executives and assemblies Some 205,000 offices were at stake Candidates for all offices except local assemblies must be screened before election, successful candidates for the assemblies were screened after election

New and stringent laws governing election procedures were in effect Campaign expenditures were limited to sums ranging from 1200 yen for a candidate for a Tokyo ward assembly up to 75,000 yen for a candidate for the House of Councilors on a national ticket Campaign posters were limited in size to eleven by sixteen inches and in number from 300 to 10,000 depending on the office The number of post cards that could be mailed to electors was limited A candidate might purchase no more than one newspaper advertisement, and this must be of a standard size specified by a local authority Campaigning in advance of the official opening date was prohibited, as was house-to-house canvassing by campaign managers Buying votes was of course forbidden Penalties for violations were severe Fines, in fact, were increased tenfold above previous figures [4] Supervision of elections, instead of being, as formerly, in the hands of local officials representing the Home Office and hence the existing government, was now in the hands of local administrative committees

Extraordinary efforts were made to stimulate interest in the balloting and to acquaint the electorate with the issues A two-reel documentary film, "For Whom Are You Casting Your Vote?" presented the history of the various parties for the preceding year, gave their current platforms, showed their leaders, and recorded the views of the man in the street An election slide film, sponsored by the Ministry of Education, encouraged full use of the franchise Short educational film strips interpreting the constitution were produced by Japanese movie companies A Constitution Popularization Society made a nation-wide distribution of 18,000,000 pamphlets printing the text of the constitution with explanatory material The press and radio were also used to stimulate intelligent participation [5]

[4] SCAP, *Summation*, No 23, August, 1947, pp 37-39, 68 As of June 20, 1947, it was reported that 3091 cases of alleged violations of election laws in the April elections were being investigated, that these involved 8532 persons, of whom 2997 had been indicted, 2246 cleared Of those indicted, as of June 10, fifty had received sentences at hard labor, twenty-one lighter jail sentences, 1028 had been fined, and 1905 still awaited trial The most common charge was bribery

The 1947 elections were observed by nearly 1400 United States teams, which surveyed from 49 2 to 52 1 percent of the 42,617 polling places Instructions to the teams read "This is a Japanese election under Japanese laws and execution must be carried out by Japanese officials In no case may you interfere with the administrative authority of these officials Your duties are (1) to observe, (2) to refer violations to Japanese officials following action to final disposition and (3) to report to higher authority" *Ibid*, p 47

[5] *Ibid*, No 19, April, 1947, p 282

Existing law forbade the holding of simultaneous elections for different types of offices Hence April, 1947, saw four separate elections April 5 for all executive officers from village headmen to prefectural governors, April 20 for House of Councilors, April 25 for House of Representatives, April 30 for members of assemblies, prefectural, city, town, and village

Election results showed that in local affairs Japanese voters were not thinking in terms of the national parties Of local executives and assemblymen a large majority were independents 31 of 46 governors, 9257 of 10,419 mayors and minor executives, 173,999 of 193,881 members of local assemblies Here personality and local reputation apparently weighed much more heavily than party membership, and in general conservatives and former officeholders prevailed over radicals and new men Even in the House of Councilors 110 or 44 percent of the 250 members were nonparty men The remaining 140 members were affiliated thus

| | |
|---|---|
| Social Democrats | 47 |
| Liberals | 39 |
| Democrats (formerly Progressives) | 30 |
| People's Cooperatives | 9 |
| Communists | 5 |
| Minor parties | 10 |

In the House of Representatives, on the other hand, all but twelve of the 466 seats were won by party men, whose numbers were as follows

| | |
|---|---|
| Social Democrats | 143 |
| Liberals | 132 |
| Democrats | 126 |
| People's Cooperatives | 31 |
| Communists | 4 |
| Minor parties | 18 |

Thus, while the Communists remained numerically insignificant, the most significant gains were made by the Social Democrats, who emerged with the largest groups in both houses of the Diet, and this despite the charge that the election law had been manipulated to favor the conservatives [6]

To Tetsu Katayama, Social Democratic leader, fell the task of forming a

[6] A new election law had been rushed through the Diet on March 30 which, among other things, increased the number of districts for members of the House of Representatives from 53 to 117 and permitted electors to vote for only one candidate, though the district might be entitled to as many as five representatives The result was, so it was claimed, that the elector, with only one vote to cast, picked the best-known name New men, and women, were at a disadvantage Richard E Lauterbach, *Danger from the East* (New York, 1947), pp 173-175 This thesis is borne out by the fact that of eighty-four women candidates for the House of Representatives only fifteen were elected as compared with thirty-nine of seventy-nine in 1946 Ten women were elected to the House of Councilors, and in the local elections women won posts at all levels The election results are analyzed in SCAP, *Summations*, No 19, April, 1947, pp 3, 17-45, No 21, June, 1947, pp 23-24, No 23, August, 1947, pp 4-5, 29-72 Figures vary slightly in the different accounts

new cabinet He was designated Prime Minister by votes of 420 to 6 in the House of Representatives, 205 to 2 in the House of Councilors When it came to forming a cabinet, however, the Liberals withheld their support, former Premier Yoshida denounced the Social Democrats as being under the Communist influence Support of the Democrats was won, it was reported, by Katayama's promise to seek only state control rather than nationalization of Japan's key industries On May 29, 1947, the formation of a three-party cabinet was announced eight Social Democrats, seven Democrats, and three People's Cooperatives On this three-party coalition Katayama's cabinet was to rest until its resignation on February 10, 1948 [7]

That resignation came about as the result of the revolt of the left wing of Katayama's own Social Democratic party, which objected to his compromises with the other parties in the coalition, and particularly to budget proposals for increases in railway and postal rates The Liberals, as the leading opposition party, claimed the premiership but were unable to secure enough support to elect Yoshida, their president Hitoshi Ashida, former Liberal but now leader of the more progressive wing of the Democrats, eventually secured enough support from Social Democrats and others to give him a majority in the House of Representatives, and though the House of Councilors gave Yoshida a plurality, under the constitution the will of the House of Representatives prevailed, and Ashida's election was announced on February 23, 1948 Concessions to the left secured the support of a part of the recalcitrant Social Democratic left wing, and Ashida's ministry depended upon the support of the same three-party coalition as his predecessor's

After their defeat for the premiership the Liberals succeeded in negotiations with conservative sympathizers in the Diet for the formation of a new conservative party Announced to the world on March 15, 1948, as the Democratic Liberal party (Minshujiyuto), it had the largest representation in the Diet, though far short of a majority [8] Built around a Liberal nucleus and led by former Premier Yoshida, the new party included thirty-six former Democrats, among them ex-Premier Shidehara Its policy declaration stated "The cancer in the reconstruction of Japan is the predominance of Socialistic ideology and the existence of a feudalistic bureaucracy camouflaged by the Socialists" Its platform called for (1) gradual removal of government controls

[7] The People's Cooperative party (Kokuminkyodoto), formed later than the others, represented "small and medium business as opposed to big business" It favored "popular rather than state control of production, exercised according to co-operative devices" and opposed socialism and communism John W Masland, "Post-War Government and Politics of Japan," in Taylor Cole and John H Hallowell (eds), *Post-War Governments of the Far East* (Gainesville, Fla, 1947), pp 565-587

[8] As of March, 1948, the Democratic Liberals had 153 seats in the House of Representatives, the Social Democrats 122, the Democrats 90, the People's Cooperatives 29 Minor parties, independents, and vacancies accounted for the remaining seventy-two seats SCAP, *Summation*, No 30, March, 1948, pp 3-4, 44

over the economy, (2) compensation of labor on the basis of productivity—a threat to notoriously padded pay rolls—(3) a lowering of income and corporation taxes and an invitation to foreign capital to participate in the rehabilitation of Japanese industry [9]

The Ashida cabinet held office until October 7, 1948, when charges of graft, involving several members of the cabinet and eventually leading to the arrest of Ashida himself, forced it to resign In the ensuing contest for the premiership in the House of Representatives, Shigeru Yoshida received 185 votes, with 213 members abstaining His election, though by a minority vote, was promptly ratified by the House of Councilors, and Yoshida became Prime Minister for the second time His new cabinet was drawn almost entirely from the ranks of the Democratic Liberal party It was his declared purpose to bring about an early dissolution of the House and a general election, which he hoped would provide stronger support for his conservative program Though the remaining weeks of the session were largely occupied with jockeying for position in the coming elections by the opposition parties, the Diet passed a new National Public Service Law, demanded by SCAP, which denied to most government employees the right to strike or to bargain collectively and created a National Personnel Authority to protect the interests of such employees and to improve the quality of the civil service It also provided an improved wage scale for government workers Passage by the House of Representatives on December 23 of a resolution of nonconfidence was followed immediately by dissolution of that house [10]

The ensuing election for members of the House of Representatives, held January 23, 1949, resulted in a spectacular triumph for Yoshida's Democratic Liberals That Party, polling nearly 44 percent of the popular vote, elected

[9] New York *Times*, March 16, 1948, p 18

[10] *Ibid*, October 8, 1948, p 19, October 10, 1948, p 10, October 20, 1948, p 3, November 11, 1948, p 13, November 29, 1948, p 17, December 7, 1948, p 21, December 17, 1948, p 5, December 24, 1948, p 2 Buffalo *Evening News*, December 1, 1948, p 3, December 14, 1948, p 6 An occasion, though not a real cause, of the vote of nonconfidence was a "kissing scandal," in which the inebriated Finance Minister made amorous advances to two lady members of Parliament For further details of the Public Service Law see below, pp 843-844 Western readers should not assume that there is too close a parallel between the working of the Japanese Diet and that of the British Parliament or the American Congress The individual member of the Diet is less a free agent than his Western counterpart in voting and even in speaking Party discipline is firmly enforced Each day's agenda is carefully worked out by a steering committee for each house, and crucial decisions are reached in an extralegal interparty negotiating conference Plenary sessions of the houses register decisions already reached in committees or conferences, though final votes are sometimes delayed by filibustering and rowdyism on the part of minorities There has been, however, enough bolting to disturb the party bosses, and the standing committees of the houses have shown initiative and independence and an inclination to investigate administration from top to bottom See Justin Williams, "Party Politics in the New Japanese Diet," *American Political Science Review*, December, 1948, pp 1163-1180, an article in the series edited by Harold S Quigley, previously cited.

264 members of the new House of Representatives, a clear majority The other sensational feature of the election was the rise of the Communist vote to nearly 3,000,000 and the election of thirty-five Communist members of the House As the right and left parties gained, the moderates lost Democrats and Socialists polled respectively 15 8 and 13 5 percent of the popular vote and elected sixty-eight and forty-nine representatives The People's Cooperatives held only fourteen seats The Democrats split soon after the House convened, and the prospect was that the two factions would gravitate to the Democratic Liberals on the right and the Socialists on the left

The new House reelected Yoshida as Prime Minister by a large majority His cabinet was drawn principally from the ranks of his own party, with a sprinkling of Democrats For the first time since the war a Prime Minister had a clear majority in the lower house Yoshida showed remarkable skill in holding that majority together When the Diet adjourned on May 31, 1949, it had passed most of the Premier's program, the most notable achievements being a balanced budget, a substantial reduction in the number of public employees, and amendments to the labor law outlawing company unions and other forms of employer influence, on the one hand, and, on the other, requiring democratic procedures in the internal government of unions and imposing penalties for the use of violence by union members Parliamentary government in Japan seemed, for the first time since the war, to be functioning effectively [11]

## *THE BUREAUCRATS REMAIN*

Of the four pillars of the prewar Japanese government, the Emperor had been curbed and the militarists abolished, but what of those other pillars, the bureaucrats and the *zaibatsu?*

Three years after the surrender the bureaucracy was virtually intact Individual bureaucrats had been purged, but because they were militarists, not because they were bureaucrats The higher ranks of the Japanese civil service were a self-perpetuating clique Legalists trained for the most part at Tokyo Imperial University (the few exceptions came from Kyoto Imperial University), the top bureaucrats shaped the civil service examinations so as to admit only their own kind They had little or no concept of public service Their routine was designed for their own convenience, not for that of the public Imbued with old-fashioned Japanese authoritarian ideals, devoted to the ancient way of life, and holding the typical legalist's reverence for prece-

[11] The election figures are given, with slight discrepancies, in New York *Times*, January 25, 1949, p 18, and January 26, 1949, p 11, the latter being the official version given out by SCAP For subsequent developments see *ibid*, February 12, p 4, February 16, p 22, February 20, p 17, March 8, p 13, May 15, p 30, May 28, p 5, June 1, p 13 (all 1949) Though the House of Representatives functioned smoothly, the House of Councilors exhibited a tendency to obstructive tactics, indicating that it was more susceptible than the other house to the influence of pressure groups There was, consequently, talk of the desirability of revising the mode of election of councilors *Ibid*, May 30, 1949, p 8

dent and the letter of the law, they constituted a serious obstacle to any real program of democratization Most career officials, it was reported late in 1947, "go through the motions of co-operating with the Americans, but have delayed, obstructed and sabotaged reform measures They mistranslate orders and laws Some bureaucrats flatly refuse to co-operate with the few Cabinet ministers who are sincerely interested in democratic reform" [12]

There had, indeed, been attempts at reform of the bureaucracy In February, 1946, the Shidehara cabinet announced a program of changes in the civil service designed to meet a rising tide of criticism The program embraced a division of the entire bureaucracy into three services—administrative, technical, and educational—and a simplification of the grading and salary systems, but the most promising proposals were for reduction in the emphasis on legal subjects in the higher civil service examinations and for the opening of more high positions to the technically as distinct from the legally trained "Cabinet representatives," SCAP commented, "have been informed that SCAP accepts these changes as a satisfactory beginning only" [13]

Despite these gestures of reform, and despite the fact that the new supremacy of the Diet and the newly instituted local autonomy in government made it possible for the Japanese to change the bureaucracy if they so desired, the summer of 1948 found the same complaints current Blaine Hoover, chief of SCAP's Headquarters Civil Service Division, was quoted in September as stating that the system was "frozen sufficiently to act as an estoppal on reform," that graduates of Tokyo Imperial University law courses still held 82 percent of the higher positions, and that all attempts by his division to get a new public service act on the statute books had "been blocked by canny bureaucrats who carefully emasculate each new draft before sending it to headquarters" [14] Pressure from SCAP, however, resulted in the passage, in November, of the National Public Service Law In an effort to break the strangle hold on the civil service of the Law Department of Tokyo Imperial University, the new statute stipulated that no two of the three members of the National Personnel Authority should be graduates of the same department of the same university Mr Hoover expressed the hope that the new law would serve to "eliminate the feudal bureaucracy and establish an efficient and equitable civil service" The complaint that "ordinary Japanese citizens

[12] "Japanese Resisting U S Reforms," *World Report*, November 25, 1947, pp 16-17 Equally strong language was used in speaking of the bureaucracy by influential Japanese newspapers as quoted in New York *Times*, May 30, 1947, p 4 See also Milton J Esman, "Japanese Administration—A Comparative View," *Public Administration Review*, Spring, 1947, pp 100-112, John M Maki, "Japan Political Reconstruction," *Far Eastern Survey*, April 9, 1947, pp 73-77, and "The Role of the Bureaucracy in Japan," *Pacific Affairs*, December, 1947, pp 391-406

[13] SCAP, *Summation*, No 5, February, 1946, pp 39-40

[14] Burton Crane, in New York *Times*, September 12, 1948, p 8

still are too inclined to accept orders from officials—and that officials still are more than willing to hand down the law from above" was still current in May, 1949, but if the attitude and quality of the bureaucracy had not been altered, at least its swollen numbers had been reduced in the interest of economy The Diet, before its adjournment on May 31, passed a bill sponsored by the Yoshida cabinet providing for the discharge of over 172,000 government employees [15]

## *LIQUIDATING THE ZAIBATSU*

In contrast with the bureaucracy, the *zaibatsu* appeared to be in process of liquidation The proposal for the dissolution of the "big four" and the SCAP directive calling for the extension of the program to other combinations were mentioned on an earlier page By the end of the first year of occupation forty *zaibatsu* holding companies had been identified, involving over 1200 separate units Their dissolution was ordered, and a Holding Company Liquidation Commission was set up to take over their assets and give receipts therefor The shares were then to be sold publicly, with safeguards to prevent their repurchase by *zaibatsu* members, and the original owners were to be compensated with ten-year government bonds, nontransferable and nonnegotiable By 1948 the commission had taken over the stock of sixty-seven holding companies and 800 subsidiaries and had sold stocks to the amount of some 250,000,000 yen Antimonopoly and deconcentration laws had been passed for the purpose of preventing a return to monopolistic practices, and a Fair Trade Commission had been set up to see that the laws were enforced Persons thought to be susceptible to *zaibatsu* influence were barred from responsible positions in former *zaibatsu* enterprises Other measures than dissolution of the great combines were designed to penalize the *zaibatsu* and lessen their influence The seizure of all foreign assets deprived the *zaibatsu* as a group of about 14 percent of their properties It was estimated that reparations would take another 5 percent Other measures included a capital levy of 10 to 30 percent of the assets of corporations and 10 to 70 percent of those of individuals, a 100 percent tax on corporation war profits and 10 to 100 percent on individual property gains

On the surface, at least, the program was designed to "soak the rich," but its long-range results were problematical An American expert, who headed a commission to survey this aspect of occupation policy, considered the program inadequate Who would purchase the holding company shares from the Liquidation Commission? Of eligible purchasers, neither labor unions nor agricultural cooperatives seemed capable of handling the job, and individuals or business groups with sufficient funds but unallied with the *zaibatsu* were hard to find Of the shares that had been sold, many had been bought by

[15] *Ibid*, November 23, 1948, p 22, December 7, 1948, p 23, May 15, 1949, p 30, June 1, 1949, p 13

company employees and previous stockholders The danger was that after the maturity of their ten-year bonds the old *zaibatsu* families or their blood kin would return to power in the economic world and resume their special relations with the government [16]

If some critics were skeptical of the effectiveness of the deconcentration program, others deplored its alleged ill effect upon Japanese production The American taxpayer, who bore the burden of meeting the deficit in Japan's domestic food supply, was anxious to see Japanese industry restored to a point at which it could pay with exports for essential imports As the rift between the United States and Russia widened, and as communism engulfed more and more of China, American military men and diplomats began thinking and talking of Japan as the Far Eastern bulwark of the United States, or as the "workshop of Asia" Both lines of thought pointed to a Japan strong in industrial productivity Several commissions of American experts on business and engineering visited Japan and urged not only that the reparations bill be lightened but that the deconcentration of industry and the purging of business leaders be halted in the interest of efficient production Recovery, in other words, should replace reform as the principal objective in dealing with Japanese business

That actual American policy was switching from the reform of industry to its recovery was demonstrated in a number of ways In February, 1948, General Frank R McCoy, American representative on the Far Eastern Commission, informed that body that henceforth it would be his government's policy to support measures "which would make a positive contribution to Japan's economic self-sufficiency" In the following May SCAP announced that of 325 companies designated for investigation under the Economic Deconcentration Law, 194 would not be required to undergo reorganization On December 9, 1948, General McCoy withdrew from the Far Eastern Commission a policy proposal known as "FEC 230," a detailed plan for economic deconcentration He alleged, as the reason for this action, that the process of deconcentration had proceeded so far and so fast—was in fact so nearly complete—that no detailed plan was necessary When the occupation's Deconcentration Review Board made its final report in August, 1949, it had broken up only eleven of the 325 companies under suspicion and had recommended structural changes in eight others It seems fairly clear that the real interest of the United States was to check the liquidation of Japanese big business and put it to work again without too much regard for democratic principles [17]

[16] Corwin D Edwards, "The Dissolution of the Japanese Combines," *Pacific Affairs*, September, 1946, pp 227-240 Cf Frank Kelley and Cornelius Ryan, *Star-Spangled Mikado* (New York, 1947), pp 175-183

[17] New York *Times*, December 10, 1948, pp 1, 10, August 4, 1949, p 11, Jerome B Cohen, "Japan Reform vs Recovery," *Far Eastern Survey*, June 23, 1948, pp 137-142, Samuel S Stratton, "The Far Eastern Commission," *ibid*, August 25, 1948, pp 190-193,

## *LAND AND LABOR*

Economic reform in Japan by no means stopped with the dissolution of the *zaibatsu* holding companies With much historical justification, occupation authorities viewed the rural landlord class as the foes of democracy and the industrial workers as its most promising friends In the interest, therefore, of political democracy as well as economic justice, occupation policy aimed at a redistribution of farm lands to the peasant cultivators and at encouragement and enlargement of Japan's urban labor movement

SCAP's directive of December 15, 1945, required the Japanese government "to take measures to insure that those who till the soil of Japan shall have a more equal opportunity to enjoy the fruits of their labor," in order to "remove economic obstacles to the revival and strengthening of democratic tendencies, establish respect for the dignity of man, and destroy the economic bondage which has enslaved the Japanese farmer to centuries of feudal oppression" A Land Reform Law and an Agricultural Land Adjustment Law, passed by the Diet in 1946, were designed to implement this directive Under this legislation some 5,000,000 acres, or about 80 percent of all tenant-cultivated land, would be purchased by the government at prices far below current market value and resold at corresponding prices to the tenants All land of absentee, or nonresident, landlords was made subject to sale Resident landlords were permitted to retain 2 5 acres of tenant-cultivated land except in thinly populated Hokkaido, where the limit was ten acres Owner-cultivators were required to sell land in excess of 7 5 acres (thirty acres in Hokkaido), though rather liberal exceptions to this limit were provided for The government undertook to pay the expropriated landlords in twenty-four-year annuity bonds bearing interest at 3 65 percent The new owners were allowed to pay in cash or in annual installments over a period not to exceed thirty years, with interest at 3 2 percent Administration of the law was placed, in the first instance, in the hands of elected local land commissions, each commission comprising five tenants, three non-cultivating landlords, and two owner-cultivators Above these were forty-six prefectural commissions and a Central Land Commission responsible, under the law, for overall policy

Quite naturally the enforcement of the program encountered difficulties One SCAP official characterized the general attitude toward land reform as one of "landlord hostility, attempts at corruption, sabotage, intimidation of tenants and public officials, and tenant apathy and ignorance" The long

Russell Brines, *MacArthur's Japan* (Philadelphia, 1948), chap 10 Related to this change in policy from reform to recovery was a peremptory order issued to the Japanese government by the State and Army Departments, December 17, 1948 Japan was told to balance its budget and stabilize its economy, or face the consequences in reduction of United States aid New York *Times*, December 18, 1948, p 1 Another United States move aimed at speeding Japanese recovery was the halting of Japanese reparation payments announced to the Far Eastern Commission by General McCoy, May 12, 1949 *Ibid*, May 13, 1949, p 1

tradition of deference to the landlord class made tenants hesitant in asserting their rights under the law After May 3, 1947, landlords could, in good American fashion, appeal to the constitution with its guarantee of the rights of private property Despite various forms of obstructionism, however, by the summer of 1948 the government had bought from the landlords about nine-tenths of the area designated for purchase, and three-fourths of the land so acquired had been resold to former tenants Substantial rent reductions made life easier for those who remained tenants

Whether land reform will endure after the end of the occupation, whether it will result in the emergence of a democratically minded small farmer group on the Jeffersonian pattern—these are questions to which the future holds the answer [18]

The success of the occupation's labor policy was quantitatively so phenomenal as eventually to cause serious embarrassment to SCAP itself Viewing labor as the chief reliance of future Japanese democracy, SCAP gave its full support to the development of a labor movement along lines familiar in the United States Labor, that is, should be free to organize and to bargain collectively with private employers, aided by suitable agencies for the supervision of mediation, conciliation, and arbitration Minimum standards of health, safety, income, and economic security should be established by law It was expected that organized labor in Japan, as in the United States, would be in the main nonpolitical—that it would act in the economic field and refrain from political pressure or political organization [19]

The "bill of rights" of October 4, 1945, the release of political prisoners, the freeing of labor from police surveillance, the dissolution of the Patriotic Industrial Association, a government agency for the regimentation of labor—all in the first few months of the occupation—gave an initial stimulus to the labor movement These measures were followed by the passage of a Trade Union Law in December, 1945, and a Labor Relations Adjustment Law in September, 1946 These laws, patterned in part on American models, guaranteed the right of organization and collective bargaining (except to police,

[18] The paragraphs on land policy are based chiefly upon William M Gilmartin and W I Ladejinsky, "The Promise of Agrarian Reform in Japan," *Foreign Affairs*, January, 1948, pp 312-324, and W I Ladejinsky, "Trial Balance in Japan," *ibid*, October, 1948, pp 104-116 See also L K Rosinger, "The Occupation of Japan," *Foreign Policy Reports*, May 15, 1947, and "Japanese Resisting U S Reforms," *World Report*, November 25, 1947 It is to be hoped that Mark Gayn (*Japan Diary*, p 494) takes an unduly pessimistic view when he predicts that history "will note that despite the land reform, the rural economy and local government remain under the control of landlords It will record violations of the new land law on a scale so vast as to make the whole reform ludicrous" Plans of the Yoshida cabinet to revise the land reform program in the interest of the landlords were vetoed by General MacArthur in October, 1949 (New York *Times*, October 22, 1949, p 6)

[19] This is the interpretation of Miriam S Farley, "Labor Policy in Occupied Japan," *Pacific Affairs*, June, 1947, pp 131-140 See also Rosinger, *op cit*

firemen, and employees of penal institutions), protected workers against discrimination because of union activities, and provided machinery for mediation, conciliation, and arbitration They restricted the right to strike in certain industries affected with a public interest and withheld it from government employees, exclusive of operating employees of government enterprises A Ministry of Labor to administer and enforce labor legislation, to collect statistics, and to perform other appropriate services was, after long discussion, created by the Diet in August, 1947

Labor was prompt to take advantage of its new freedoms Prior to 1945 total membership in Japanese unions had never exceeded half a million By December, 1946, there were over 17,000 unions with a combined membership of more than 4,400,000 By April, 1948, the latter figure had reached 6,000,000 Unionization, it was claimed, had in most cases begun spontaneously in local groups Thence it had proceeded to the formation of national unions, and these finally had combined into three principal federations—the National Congress of Industrial Unions, more or less under Communist influence, the General Federation of Japanese Trade Unions, affiliated with the right wing of the Social Democratic party, and the All-Japan Council of Labor Unions, under left-wing Social Democratic leadership Some degree of unity among these three federations and a number of independent unions was maintained through a National Liaison Council of Labor Unions

As might have been expected, this mushroom growth of organized labor among a people lacking experience and trained leaders produced abuses and excesses The Communist minority, through superior organization and strong-arm tactics, won a degree of influence in some unions all out of proportion to their numbers Methods reminiscent of earlier terroristic societies were employed, ex-servicemen often found congenial work as members of "goon squads" in alliance with Communists and other minority groups Democracy was conspicuously lacking in many unions[20] Union officials, furthermore, frequently took advantage of their employers, whether government or private industry, by doing their union work on employer time, and often with the aid of the employer's stationery and other office facilities "Nearly all employers," wrote an American correspondent, "carry on their payrolls nominal 'employees' who actually spend their entire time on union affairs The union meetings are usually held on the employer's time and on the employer's premises"[21] Proposed strikes of government workers in transportation and communications—based on the undeniable fact that government wage scales lagged far behind those in private industry—threatened Japan with economic disaster

Three times threats of such crises led SCAP to intervene A proposed strike of government workers and affiliated public utility unions set for

[20] Burton Crane, in New York *Times*, April 22, 1947, p 7

[21] Lindesay Parrott in *ibid*, August 7, 1948, p 6

February 1, 1947, was forbidden by the supreme commander in a statement of January 31, to save the Japanese people, as he explained, from the consequences of this "deadly social weapon in the present impoverished and emaciated condition of Japan" In March, 1948, the All-Japan Government Communications Workers' Union, demanding a larger pay rise than the government had seen fit to grant, planned a nation-wide strike for March 31 The strike was called off when the government informed the union that SCAP had indicated that the ban upon the 1947 strike was applicable in this case Subsequent SCAP statements made it plain that local or partial as well as nation-wide stoppages by the Communications Workers were prohibited This episode led Prime Minister Ashida to talk of the need of a Taft-Hartley law for Japan Labor Minister Kato, in turn, a left-wing Social Democrat, threatened to resign at once if the cabinet should sponsor revision of the labor laws [22]

A third threat of a government workers' strike—partly to force a pay rise, partly a Communist-led demonstration against the Ashida cabinet—came in late July, 1948 For the third time General MacArthur intervened, declaring in a letter to the cabinet that no person employed in the public service of Japan "should resort to a strike or engage in delaying or other dispute tactics which tend to impair the efficiency of governmental operations" [23] Interpreting the general's letter "as a directive overriding the law," the Ashida cabinet on July 31 issued a sweeping order denying to government employees both the right to strike and the right of collective bargaining, banning slowdowns and other substitutes for strikes, and imposing both fines and jail sentences for violations of the order Since collective bargaining was outlawed, machinery for arbitration and mediation of disputes, so far as it related to government employees, was abolished As a concession to the Socialists, the largest group in the coalition government, the order left to government employees the right to negotiate, individually or through representatives, "with the object of expressing complaints, desires or dissatisfactions and presenting their views about these matters" A Temporary Personnel Commission was set up to "look after the interests" of the workers [24]

Plans of the Ashida cabinet to have these regulations enacted into law by a special session of the Diet went awry when scandals compelled the cabinet to resign The Yoshida ministry, however, with the aid of pressure from SCAP, secured the approval of the Diet for the proposed measure on November 30, 1948 The National Public Service Law then enacted banned strikes by all government workers and collective bargaining by most Government-owned railways and certain monopoly bureaus such as those handling tobacco, salt, and camphor were to be reorganized as public corpora-

[22] SCAP, *Summation*, No 31, April, 1948, pp 23-27

[23] Burton Crane, in New York *Times*, July 24, 1948, p 4

[24] Lindesay Parrott, in *ibid*, August 1, 1948, p 14

tions, whereupon their employees were to be given the right to bargain but not to strike Other government employees were to enjoy the right to "negotiate," meaning presumably the right to present their grievances to the National Personnel Authority The difference between the right to bargain (with no right to strike) and the right to negotiate was not made entirely clear [25]

The antistrike order of July, 1948, was met with protests from employees of both government and private industry It was followed, in fact, by sporadic temporary and local work stoppages, especially in the coal mines and in the Communist-led union of electrical workers Such strikes, which resulted in much inconvenience and considerable loss of production, did not entirely cease until December, when, following the State-Army Department order to Japan to straighten out its economy, General MacArthur issued an ultimatum to the heads of the recalcitrant unions [26]

Meanwhile, the more conservative and responsible labor leaders were not only blaming Communist leadership for drawing down the supreme commander's lightning upon the government employees' unions, they were also taking measures to eliminate that leadership In a number of these unions—railway workers, communications workers, the teachers' union, the metropolitan office workers' union, etc—"democratization leagues" were being formed by anti-Communists with the purpose of ousting Communists from positions of influence and introducing a more democratic system of internal government Unofficial estimates indicated that about one-third of Japan's union membership was affiliated with the leagues Thus it seemed that the labor crisis of 1948, although it led to some needful restrictions on labor in the interest of the public welfare, might also bring about some salutary reform within labor's own household [27]

## *CAN DEMOCRACY THRIVE IN JAPAN?*

It was difficult, at the close of 1949, to assess the prospects of Japanese democracy On the positive side it was possible to point to impressive achievements The new constitution was among the most democratic in the world—in its assertion of popular sovereignty, its emancipation of woman and the common man, its guarantee of a long list of liberties, its assignment of the

[25] *Ibid*, November 10, 1948, p 17, December 7, 1948, p 23, Buffalo *Evening News*, December 1, 1948, p 3

[26] New York *Times*, December 22, 1948, p 9 SCAP found it necessary to intervene again in March, 1949, to forbid a strike of fourteen unions affiliated with the National Congress of Industrial Organizations The proposed strike was in protest against amendments to the labor law then under consideration by the Diet *Ibid*, March 27, 1949, p 22

[27] *Ibid*, September 6, 1948, p 14, September 9, 1948, p 13, November 18, 1948, p 13 By the end of 1949 Communist influence was unmistakably on the wane in the labor unions and with the general public Of some thousands of repatriates from Russian prison camps, supposedly converted to communism, it was estimated that 90 percent "backslid" on their return home (*Ibid*, January 4, 1950, p 6)

full control of government to the representatives of the people Its principles had, to all appearances, been accepted by everyone from the Emperor down The Emperor had not only repudiated the superstition of his divinity, he now went about among his people, visiting villages, mines, and factories like a democratic sovereign, he made his appearances before the Diet in simple civilian attire and spoke of himself in the singular as one of "we the people of Japan" [28]

Genuine attempts had been made to democratize business and agriculture—to break up the great monopolies in finance, industry, and commerce, and to hand back the land to the cultivators Labor had been freed from its ancient restrictions and encouraged to organize and—within limits—to improve its standing in the economy The rise of a Social Democratic party to an influential position in the government had been viewed without alarm by the occupation

Plans had been made for a broader and more democratic system of education All Japanese children, when the new plan went into effect, would receive six years of primary education and three years in middle school, with an optional three-year high school course to follow If occupation authorities had their way, freedom of discussion in the classroom would replace the traditional authoritarianism of the Japanese teacher, lessons in democracy would supplant solemn bowing before the Emperor's portrait, a simplified, phonetic form of Japanese would replace the complicated Chinese characters Entrance to high schools and colleges, formerly limited almost exclusively to graduates of middle schools for boys, would be opened to graduates of girls' and vocational schools Graduates of all higher schools and colleges, without distinction of sex, would be eligible to compete for entrance to the universities The old type of entrance examination, mainly a memory test, was being replaced by academic aptitude and scholastic achievement tests and by instructors' ratings on scholastic ability and personality The officers of each institution would determine the number of students that could be accepted The limited opportunities for entrance to the universities were being broadened In March, 1948, the Chartering Committee of the Ministry of Education approved the applications of twelve institutions of higher education, all but one privately controlled, for reorganization as four-year universities As a sort of capstone for the revamped system of national education, the Diet in February, 1948, provided for the creation of a National Diet Library, patterned upon the Library of Congress, whose services and collections were, to the fullest extent feasible, to be available to the people of Japan, either directly or through prefectural and other regional libraries [29] In theory, now,

[28] *Ibid*, January 22, 1948, p 10

[29] SCAP, *Summations*, No 17, February, 1947, pp 259-260, No 29, February, 1948, pp 46, 295-296, No 30, March, 1948, p 304, "The Program for Reeducation in Japan A Survey of Policy," United States Department of State, *Documents and State Papers*

every Japanese child could achieve whatever kind and degree of education his ability warranted Along the way he would learn, in theory at least, not the virtues of Emperor worship and unquestioning obedience to superiors but the principles of democracy

All the foregoing developments were hopeful, but much was to be said on the negative side Japan's theoretically democratic government still functioned under a dictatorship as absolute as that of any Shogun had ever been General MacArthur ruled Japan His wishes were law, whether expressed as "directives," "advice," or mere "suggestions" Though the "civil affairs" teams in the prefectures were disbanded in July, 1949, and the degree of American control was being gradually relaxed, in major matters the cabinet was still little better than a rubber stamp for the occupation, while the Diet served as a rubber stamp for the cabinet No one would maintain that experience under a dictatorship, even though the forms of democracy were present, was the best training for the practice of democracy Certain specific practices of the occupation, furthermore, could be pointed to as undemocratic—notably its rigid censorship of press, radio, and cinema, some would add its suppression of the unions of government workers Not only is it questionable whether democracy can be imposed by a dictatorship, as the months passed, bringing changes in personnel and in the world situation, SCAP's early enthusiasm for democratic reform seemed to be giving place to impatience for economic recovery [30]

Consciousness that the forms of democracy for the time being meant little may perhaps have accounted for a growing popular apathy toward elections The percentage of eligible voters who actually cast ballots dropped from 61 percent in the general election of 1946 to 32 percent in that of the next year, and available figures for later by-elections showed abstentions ranging from 50 to 79 percent [31]

A second flaw in the democratic fabric was the lack of economic resources Democracy, experience seems to show, is a fair-weather philosophy People in dire distress are apt to turn to dictatorship, whether of the right or of the left Japan, always a poor country, was rendered far poorer by the war, the destruction of property, the loss of overseas territories The dissolution of the *zaibatsu,* whatever its ultimate effect, temporarily retarded recovery, as did the purging of experienced businessmen Reparations and the costs of

(April, 1948), vol 1, pp 3-31 Many of the changes in the educational system were made at the suggestion of the United States Education Mission to Japan, whose report of April 6, 1946, is summarized in *Occupation of Japan Policy and Progress,* Department of State Publication 2671, Far Eastern Series 17 (Washington, n d ), pp 156-163

[30] For contrasting opinions of the influence of the occupation on Japanese democracy see Philip H Taylor, "The Administration of Occupied Japan," and Ralph J D Braibanti, "The Role of Administration in the Occupation of Japan," *Annals of the American Academy of Political and Social Science,* January, 1950, pp 140-153, 154-163

[31] New York *Times,* September 1, 1948, p 10

the occupation exacted their heavy toll The new educational system remained mostly on paper because there were no funds to set it up Whether tiny farms averaging not over 2 5 acres each can support a class of self-respecting democratic small farmers is a grave question A fair measure of economic well-being for the Japanese people would not be a guarantee of the permanence of democracy, but would seem to be indispensable to it

If the economic base for Japanese democracy was weak, the same could be said of the spiritual base The tradition of hierarchy in government, of implicit obedience to all superiors from the head of the family to the head of the state, is too firmly rooted in Japanese thinking to be readily overcome It has behind it the sanction not only of political philosophy but of religion as well It was the soul of Shinto, it was a vital feature of Confucianism, it found little to contradict it in Buddhism In the opinion of some students of the subject, only through an acceptance of the ideals (not necessarily the theology) of Christianity, with its emphasis on the importance and sanctity of the individual, could the Japanese people find an adequate spiritual foundation for democracy [32]

If neither the economic nor the spiritual base for democracy could be supplied, some prophets foresaw a return to traditional patterns, others predicted a drift to communism There were some reasons to suspect that the Japanese were merely bowing to necessity, accepting the dictates of the occupation while perforce they must, but quietly plotting a return to the old ways as soon as the Americans should depart No one could feel sure that then the old *zaibatsu* would not return to power in the field of business or the former landowners in the world of agriculture In education, Prime Minister Ashida was reported to have advised prefectural authorities that there was "no need of adopting the costly new system, because the Americans soon will be gone anyway" Skeptics saw much significance in the verses written by the poetizing Emperor for New Year's Day, 1946

The pine is brave
That changes not its color,
Bearing the snow
People, too,
Like it should be

Was Hirohito subtly counseling his people not to "change their color" under the snows of the American occupation? [33] On the other hand, prolonged material deprivation would certainly strengthen leftist tendencies, and the authoritarianism of communism would find many congenial spirits among those who had once accepted an authoritarianism of the right The progress

[32] Yasaka Takagi, "Defeat and Democracy in Japan," *Foreign Affairs*, July, 1948, pp 645-652 General MacArthur has expressed similar views

[33] Brines, *op cit*, pp 98, 241 Quoted by permission of J B Lippincott Company

of communism elsewhere in the Far East would surely produce echoes in Japan

But, granted a tolerable standard of living, optimists could have faith in the future of Japanese democracy One of them, an American, wrote, late in 1947 "But if the present evidence indicates future trends, and if the Japanese are as honest in their conversion as they seem, Japan will become, and in a measurably short time, one of the leading democratic nations of the world" [84] When an observer who had watched Japanese democracy at work could write thus, there was certainly ground for hope

[84] Roger N Baldwin, "Democracy Taking Root in Japan," *Freedom and Union*, December, 1947, pp 6-7

Appendix to Part VI

# The Constitution of Japan

Effective May 3, 1947

I rejoice that the foundation for the construction of a new Japan has been laid according to the will of the Japanese people, and hereby sanction and promulgate the amendments of the Imperial Japanese Constitution effected following the consultation with the Privy Council and the decision of the Imperial Diet made in accordance with Article 73 of the said Constitution

Signed HIROHITO, Seal of the Emperor

This third day of the eleventh month of the twenty-first year of Showa (November 3, 1946)

Countersigned

| | |
|---|---|
| Prime Minister and concurrently Minister for Foreign Affairs | Yoshida Shigeru |
| Minister of State | Baron Shidehara Kijuro |
| Minister of Justice | Kimura Tokutaro |
| Minister for Home Affairs | Omura Seiichi |
| Minister of Education | Tanaka Kotaro |
| Minister of Agriculture and Forestry | Wada Hiroo |
| Minister of State | Saito Takao |
| Minister of Communications | Hitotsumatsu Sadayoshi |
| Minister of Commerce and Industry | Hoshijima Niro |
| Minister of Welfare | Kawai Yoshinari |
| Minister of State | Ufhara Etsujiro |
| Minister of Transportation | Hiratsuka Tsunejiro |
| Minister of Finance | Ishibashi Tanzan |
| Minister of State | Kanamori Tokujiro |
| Minister of State | Zen Keinosuke |

We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful cooperation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be

visited with the horrors of war through the action of government, do proclaim that sovereign power resides with the people and do firmly establish this Constitution Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people This is a universal principle of mankind upon which this Constitution is founded We reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith

We, the Japanese people, desire peace for all time and are deeply conscious of the high ideals controlling human relationship, and we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth We recognize that all peoples of the world have the right to live in peace, free from fear and want

We believe that no nation is responsible to itself alone, but that laws of political morality are universal, and that obedience to such laws is incumbent upon all nations who would sustain their own sovereignty and justify their sovereign relationship with other nations

We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources

## *Chapter I The Emperor*

### ARTICLE 1

The Emperor shall be the symbol of the State and of the unity of the people, deriving his position from the will of the people with whom resides sovereign power

### ARTICLE 2

The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet

### ARTICLE 3

The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor

### ARTICLE 4

The Emperor shall perform only such acts in matters of state as are provided for in this Constitution and he shall not have powers related to government

The Emperor may delegate the performance of his acts in matters of state as may be provided by law

ARTICLE 5

When, in accordance with the Imperial House Law, a Regency is established, the Regent shall perform his acts in matters of state in the Emperor's name In this case, paragraph one of the preceding article will be applicable

ARTICLE 6

The Emperor shall appoint the Prime Minister as designated by the Diet

The Emperor shall appoint the Chief Judge of the Supreme Court as designated by the Cabinet

ARTICLE 7

The Emperor, with the advice and approval of the Cabinet, shall perform the following acts in matters of state on behalf of the people

Promulgation of amendments of the constitution, laws, cabinet orders and treaties

Convocation of the Diet

Dissolution of the House of Representatives

Proclamation of general election of members of the Diet

Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers

Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights

Awarding of honors

Attestation of instruments of ratification and other diplomatic documents as provided for by law

Receiving foreign ambassadors and ministers

Performance of ceremonial functions

ARTICLE 8

No property can be given to, or received by, the Imperial House, nor can any gifts be made therefrom, without the authorization of the Diet

## *Chapter II Renunciation of War*

ARTICLE 9

Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes

In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained The right of belligerency of the state will not be recognized

## *Chapter III Rights and Duties of the People*

ARTICLE 10

The conditions necessary for being a Japanese national shall be determined by law

ARTICLE 11

The people shall not be prevented from enjoying any of the fundamental human rights These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights

ARTICLE 12

The freedoms and rights guaranteed to the people by this Constitution shall be maintained by the constant endeavor of the people, who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare

ARTICLE 13

All of the people shall be respected as individuals Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs

ARTICLE 14

All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin

Peers and peerage shall not be recognized

No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it

ARTICLE 15

The people have the inalienable right to choose their public officials and to dismiss them

All public officials are servants of the whole community and not of any group thereof

Universal adult suffrage is guaranteed with regard to the election of public officials

In all elections, secrecy of the ballot shall not be violated A voter shall not be answerable, publicly or privately, for the choice he has made

ARTICLE 16

Every person shall have the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment, repeal or

amendment of laws, ordinances or regulations and for other matters, nor shall any person be in any way discriminated against for sponsoring such a petition

ARTICLE 17

Every person may sue for redress as provided by law from the State or a public entity, in case he has suffered damage through illegal act of any public official

ARTICLE 18

No person shall be held in bondage of any kind Involuntary servitude, except as punishment for crime, is prohibited

ARTICLE 19

Freedom of thought and conscience shall not be violated

ARTICLE 20

Freedom of religion is guaranteed to all No religious organization shall receive any privileges from the State, nor exercise any political authority

No person shall be compelled to take part in any religious act, celebration, rite or practice

The State and its organs shall refrain from religious education or any other religious activity

ARTICLE 21

Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed

No censorship shall be maintained, nor shall the secrecy of any means of communication be violated

ARTICLE 22

Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate

ARTICLE 23

Academic freedom is guaranteed

ARTICLE 24

Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis

With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes

ARTICLE 25

All people shall have the right to maintain the minimum standards of wholesome and cultured living

In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health

ARTICLE 26

All people shall have the right to receive an equal education correspondent to their ability, as provided by law

All people shall be obligated to have all boys and girls under their protection receive ordinary education as provided for by law Such compulsory education shall be free

ARTICLE 27

All people shall have the right and the obligation to work

Standards for wages, hours, rest and other working conditions shall be fixed by law

Children shall not be exploited

ARTICLE 28

The right of workers to organize and to bargain and act collectively is guaranteed

ARTICLE 29

The right to own or to hold property is inviolable

Property rights shall be defined by law, in conformity with the public welfare

Private property may be taken for public use upon just compensation therefor

ARTICLE 30

The people shall be liable to taxation as provided by law

ARTICLE 31

No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law

ARTICLE 32

No person shall be denied the right of access to the courts

ARTICLE 33

No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended, the offense being committed

ARTICLE 34

No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel,

nor shall he be detained without adequate cause, and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel

ARTICLE 35

The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33

Each search or seizure shall be made upon separate warrant issued by a competent judicial officer

ARTICLE 36

The infliction of torture by any public officer and cruel punishments are absolutely forbidden

ARTICLE 37

In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense

At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State

ARTICLE 38

No person shall be compelled to testify against himself

Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence

No person shall be convicted or punished in cases where the only proof against him is his own confession

ARTICLE 39

No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy

ARTICLE 40

Any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law

## *Chapter IV The Diet*

ARTICLE 41

The Diet shall be the highest organ of state power, and shall be the sole law-making organ of the State

ARTICLE 42

The Diet shall consist of two Houses, namely the House of Representatives and the House of Councillors

ARTICLE 43

Both Houses shall consist of elected members, representative of all the people

The number of the members of each House shall be fixed by law

ARTICLE 44

The qualifications of members of both Houses and their electors shall be fixed by law However, there shall be no discrimination because of race, creed, sex, social status, family origin, education, property or income

ARTICLE 45

The term of office of members of the House of Representatives shall be four years However, the term shall be terminated before the full term is up in case the House of Representatives is dissolved

ARTICLE 46

The term of office of members of the House of Councillors shall be six years, and election for half the members shall take place every three years

ARTICLE 47

Electoral districts, method of voting and other matters pertaining to the method of election of members of both Houses shall be fixed by law

ARTICLE 48

No person shall be permitted to be a member of both Houses simultaneously

ARTICLE 49

Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with law

ARTICLE 50

Except in cases provided by law, members of both Houses shall be exempt from apprehension while the Diet is in session, and any members apprehended before the opening of the session shall be freed during the term of the session upon demand of the House

ARTICLE 51

Members of both Houses shall not be held liable outside the House for speeches, debates or votes cast inside the House

ARTICLE 52

An ordinary session of the Diet shall be convoked once per year

ARTICLE 53

The Cabinet may determine to convoke extraordinary sessions of the Diet When a quarter or more of the total members of either House makes the demand, the Cabinet must determine on such convocation

ARTICLE 54

When the House of Representatives is dissolved, there must be a general election of members of the House of Representatives within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election

When the House of Representatives is dissolved, the House of Councillors is closed at the same time However, the Cabinet may in time of national emergency convoke the House of Councillors in emergency session

Measures taken at such session as mentioned in the proviso of the preceding paragraph shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten (10) days after the opening of the next session of the Diet

ARTICLE 55

Each House shall judge disputes related to qualifications of its members However, in order to deny a seat to any member, it is necessary to pass a resolution by a majority of two-thirds or more of the members present

ARTICLE 56

Business cannot be transacted in either House unless one-third or more of total membership is present

All matters shall be decided, in each House, by a majority of those present, except as elsewhere provided in the Constitution, and in case of a tie, the presiding officer shall decide the issue

ARTICLE 57

Deliberation in each House shall be public However, a secret meeting may be held where a majority of two-thirds or more of those members present passes a resolution therefor

Each House shall keep a record of proceedings This record shall be published and given general circulation, excepting such parts of proceedings of secret session as may be deemed to require secrecy

Upon demand of one-fifth or more of the members present, votes of the members on any matter shall be recorded in the minutes

ARTICLE 58

Each House shall select its own president and other officials

Each House shall establish its rules pertaining to meetings, proceedings and internal discipline, and may punish members for disorderly conduct How-

ever, in order to expel a member, a majority of two-thirds or more of those members present must pass a resolution thereon

ARTICLE 59

A bill becomes a law on passage by both Houses, except as otherwise provided by the Constitution

A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives by a majority of two-thirds or more of the members present

The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a joint committee of both Houses, provided for by law

Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection of the said bill by the House of Councillors

ARTICLE 60

The budget must first be submitted to the House of Representatives

Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when no agreement can be reached even through a joint committee of both Houses, provided for by law, or in the case of failure by the House of Councillors to take final action within thirty (30) days, the period of recess excluded, after the receipt of the budget passed by the House of Representatives, the decision of the House of Representatives shall be the decision of the Diet

ARTICLE 61

The second paragraph of the preceding article applies also to the Diet approval required for the conclusion of treaties

ARTICLE 62

Each House may conduct investigations in relation to government, and may demand the presence and testimony of witnesses, and the production of records

ARTICLE 63

The Prime Minister and other Ministers of State may, at any time, appear in either House for the purpose of speaking on bills, regardless of whether they are members of the House or not They must appear when their presence is required in order to give answers or explanations

ARTICLE 64

The Diet shall set up an impeachment court from among the members of both Houses for the purpose of trying those judges against whom removal proceedings have been instituted

Matters relating to impeachment shall be provided by law.

## *Chapter V The Cabinet*

ARTICLE 65

Executive power shall be vested in the Cabinet

ARTICLE 66

The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State, as provided for by law

The Prime Minister and other Ministers of State must be civilians

The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet

ARTICLE 67

The Prime Minister shall be designated from among the members of the Diet by a resolution of the Diet This designation shall precede all other business

If the House of Representatives and the House of Councillors disagree and if no agreement can be reached even through a joint committee of both Houses, provided for by law, or the House of Councillors fails to make designation within ten (10) days, exclusive of the period of recess, after the House of Representatives has made designation, the decision of the House of Representatives shall be the decision of the Diet

ARTICLE 68

The Prime Minister shall appoint the Ministers of State However, a majority of their number must be chosen from among the members of the Diet

The Prime Minister may remove the Ministers of State as he chooses

ARTICLE 69

If the House of Representatives passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the House of Representatives is dissolved within ten (10) days

ARTICLE 70

When there is a vacancy in the post of Prime Minister, or upon the first convocation of the Diet after a general election of members of the House of Representatives, the Cabinet shall resign en masse

ARTICLE 71

In the cases mentioned in the two preceding articles, the Cabinet shall continue its functions until the time when a new Prime Minister is appointed

ARTICLE 72

The Prime Minister, representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diet and exercises control and supervision over various administrative branches

ARTICLE 73

The Cabinet, in addition to other general administrative functions, shall perform the following functions

Administer the law faithfully, conduct affairs of state

Manage foreign affairs

Conclude treaties However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet

Administer the civil service, in accordance with standards established by law

Prepare the budget, and present it to the Diet

Enact cabinet orders in order to execute the provisions of this Constitution and of the law However, it cannot include penal provisions in such cabinet orders unless authorized by such law

Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights

ARTICLE 74

All laws and cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister

ARTICLE 75

The Ministers of State, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister However, the right to take that action is not impaired hereby

*Chapter VI Judiciary*

ARTICLE 76

The whole judicial power is vested in a Supreme Court and in such inferior courts as are established by law

No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power

All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws

ARTICLE 77

The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs

Public procurators shall be subject to the rule-making power of the Supreme Court

The Supreme Court may delegate the power to make rules for inferior courts to such courts

ARTICLE 78

Judges shall not be removed except by public impeachment unless judicially declared mentally or physically incompetent to perform official duties No disciplinary action against judges shall be administered by any executive organ or agency

ARTICLE 79

The Supreme Court shall consist of a Chief Judge and such number of judges as may be determined by law, all such judges excepting the Chief Judge shall be appointed by the Cabinet

The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of members of the House of Representatives following their appointment, and shall be reviewed again at the first general election of members of the House of Representatives after a lapse of ten (10) years, and in the same manner thereafter

In cases mentioned in the foregoing paragraph, when the majority of the voters favors the dismissal of a judge, he shall be dismissed

Matters pertaining to review shall be prescribed by law

The judges of the Supreme Court shall be retired upon the attainment of the age as fixed by law

All such judges shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office

ARTICLE 80

The judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court All such judges shall hold office for a term of ten (10) years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law

The judges of the inferior courts shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office

ARTICLE 81

The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act

ARTICLE 82

Trials shall be conducted and judgment declared publicly

Where a court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offenses, offenses involving the press or cases wherein the rights of people as guaranteed in Chapter III of this Constitution are in question shall always be conducted publicly

## *Chapter VII Finance*

ARTICLE 83

The power to administer national finances shall be exercised as the Diet shall determine

ARTICLE 84

No new taxes shall be imposed or existing ones modified except by law or under such conditions as law may prescribe

ARTICLE 85

No money shall be expended, nor shall the State obligate itself, except as authorized by the Diet

ARTICLE 86

The Cabinet shall prepare and submit to the Diet for its consideration and decision a budget for each fiscal year

ARTICLE 87

In order to provide for unforeseen deficiencies in the budget, a reserve fund may be authorized by the Diet to be expended upon the responsibility of the Cabinet

The Cabinet must get subsequent approval of the Diet for all payments from the reserve fund

ARTICLE 88

All property of the Imperial Household shall belong to the State All expenses of the Imperial Household shall be appropriated by the Diet in the budget

ARTICLE 89

No public money or other property shall be expended or appropriated for the use, benefit or maintenance of any religious institution or association, or for any charitable, educational or benevolent enterprises not under the control of public authority

ARTICLE 90

Final accounts of the expenditures and revenues of the State shall be audited annually by a Board of Audit and submitted by the Cabinet to the

Diet, together with the statement of audit, during the fiscal year immediately following the period covered

The organization and competency of the Board of Audit shall be determined by law

ARTICLE 91

At regular intervals and at least annually the Cabinet shall report to the Diet and the people on the state of national finances

## *Chapter VIII Local Self-Government*

ARTICLE 92

Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy

ARTICLE 93

The local public entities shall establish assemblies as their deliberate [deliberative?] organs, in accordance with law

The chief executive officers of all local public entities, the members of their assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities

ARTICLE 94

Local public entities shall have the right to manage their property, affairs and administration and to enact their own regulations within law

ARTICLE 95

A special law, applicable only to one local public entity, cannot be enacted by the Diet without the consent of the majority of the voters of the local public entity concerned, obtained in accordance with law

## *Chapter IX Amendments*

ARTICLE 96

Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds or more of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the Diet shall specify

Amendments when so ratified shall immediately be promulgated by the Emperor in the name of the people, as an integral part of this Constitution

## *Chapter X Supreme Law*

ARTICLE 97

The fundamental human rights by this Constitution guaranteed to the people of Japan are fruits of the age-old struggle of man to be free, they have survived the many exacting tests for durability and are conferred upon this and future generations in trust, to be held for all time inviolate

ARTICLE 98

This Constitution shall be the supreme law of the nation and no law, ordinance, imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity

The treaties concluded by Japan and established laws of nations shall be faithfully observed

ARTICLE 99

The Emperor or the Regent as well as Ministers of State, members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution

## *Chapter XI. Supplementary Provisions*

ARTICLE 100

This Constitution shall be enforced as from the day when the period of six months will have elapsed counting from the day of its promulgation

The enactment of laws necessary for the enforcement of this Constitution, the election of members of the House of Councillors and the procedure for the convocation of the Diet and other preparatory procedures necessary for the enforcement of this Constitution may be executed before the day prescribed in the preceding paragraph

ARTICLE 101

If the House of Councillors is not constituted before the effective date of this Constitution, the House of Representatives shall function as the Diet until such time as the House of Councillors shall be constituted

ARTICLE 102

The term of office for half the members of the House of Councillors serving in the first term under this Constitution shall be three years Members falling under this category shall be determined in accordance with law

ARTICLE 103

The Ministers of State, members of the House of Representatives and judges in office on the effective date of this Constitution, and all other public officials who occupy positions corresponding to such positions as are recog-

nized by this Constitution shall not forfeit their positions automatically on account of the enforcement of this Constitution unless otherwise specified by law When, however, successors are elected or appointed under the provisions of this Constitution, they shall forfeit their positions as a matter of course.

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# PART VII

# The Government of Germany

By JULIAN PARK

# Chapter 51

# *Germany, 1871-1949*

UPON her unification in 1871, Germany began the experience of parliamentary government The Holy Roman Empire and the Germanic Confederation of 1815-1866, regarded as entities, had no representative institutions, although the old free cities had some local self-government and some of the states had diets of the medieval type Napoleon encouraged assemblies of a weak sort in the states of his Confederation of the Rhine (1807-1813), and after 1815 half a dozen southern states adopted constitutions In 1849 Prussia followed suit, and, just as the constitution of Piedmont, adopted at almost the same time, became the basis for that of united Italy, so the Prussian constitution was in part the pattern for that of the North German Confederation and in turn of the empire

In general these constitutions were weighted in favor of the well-to-do classes Conservative and Liberal parties came into existence, the former representing chiefly the landowning Junkers, the latter the merchants and professional men

Bismarck always felt that just as great an achievement as the German victory over France was his own victory over the German states in persuading them to accept the hegemony of Prussia On his side were military strength and economic resources, against him was the dislike of Prussian arrogance This arrogance and conservatism had once before blocked the movement toward unity Germany was not free from the great upsets of the year 1848-1849 At Frankfort a German National Assembly had adopted a constitution which provided that the head of a united Germany should be a hereditary emperor and that the crown should be offered to the King of Prussia But Frederick William IV had no stomach for the liberal constitution in which the imperial crown was wrapped up He was well aware that any assumption of an imperial title by him would evoke jealous opposition from the Kings of Bavaria, Wurttemberg, Saxony, and Hanover, and especially from the Emperor of Austria So he repudiated the Frankfort constitution and refused the imperial crown Only Caesar has been offered a crown more than once Bitterly did Frederick William regret his lost opportunity, but his acceptance

of the crown would have been a shallow, meaningless act, since at heart he was no liberal A few years later (whether or not a result of that fateful episode) he became a prey to mental illness, and for the last few months of his life his brother acted as regent William I became King of Prussia in 1861 and immediately summoned Bismarck as Chancellor

William was Prussian to the core and regarded the title of emperor as an unsubstantial pomp which would detract from his cherished status as King of Prussia To win him over, it was necessary that his fellow rulers should press him With tremendous difficulty, and at the cost of concessions not granted to the other states, Bismarck managed to engineer an invitation from the King of Bavaria asking William to assume the imperial honor But the Bavarian government insisted that the Prussian King should become not emperor of Germany, but German emperor The distinction seems subtle, but it is not, since the Kaiser was considered merely as *primus inter pares* in a federation of territorial princes [1] When the other Kings came to study more closely the constitution which they swore at Versailles to defend, they realized, however, that they had entrusted the Kaiser with a good deal of power, chiefly that of appointing and removing the Chancellor and all subordinate officials of the administrative hierarchy, and that of declaring war There was no reason to call William I the "war lord" but every reason to give that title to his grandson William II (1888-1918)

The story of the unification of Germany forms an integral part of any estimate, however brief, of the development of the German outlook on society, for it was in the course of this process that most of the German liberals sacrificed insistence upon the general tenets of liberalism to the achievement of nationalistic ends These ends were achieved not by the liberals but by stern Prussians who looked to might for their righteousness and gloried in the element of force It was with them that the future lay

In this so-called Second Reich (the first being the Holy Roman Empire) there were in 1871 twenty-five states, Alsace-Lorraine being added in 1911, under a central government in Berlin Legislative power was vested in the Federal Council *(Bundesrat)* and the Federal Assembly or *Reichstag* The first, consisting of fifty-eight delegates, three being added in 1911, represented the state governments and necessarily reflected their opinions It sat behind closed doors, acted as supreme court for certain cases, and controlled all important legislation through its power to veto actions of the Reichstag

The lower house was elected directly by single-member districts for a

[1] Cf the titles assumed by Napoleon I and Louis Philippe—"Emperor of the French," "King of the French," not "of France" This was both clever and realistic clever because it bound them more closely to their people, realistic because there was no question of the "grace of God," or the divine right, entering in To some extent the analogy applies to Germany, although in that case the new Emperor had already been a King—whether or not by the grace of God is a nice metaphysical problem

term of five years and in theory had many large powers Although it passed the budget it had little control over it, since the principal taxes were permanent and might not be changed without consent of the Bundesrat Usually it merely discussed and changed ordinary bills It dealt with the Chancellor as representing the Kaiser This official, who was also Prime Minister of Prussia, was appointed to both posts by the Kaiser and managed the greater part of the executive and legislative business Responsible solely to the Kaiser, he did not feel compelled to resign on the failure of his measures to pass the lower house

The new German Empire inherited the political parties of its predecessors The Conservatives represented the country squires, the Junkers, who were primarily Lutherans and Prussians Beside them was a group of Free Conservatives, chiefly of the middle or higher nobility with interests in industry and a broader economic view than that of the Junkers The National Liberals were the party of large industry and commerce, next them were the Progressives, representing the less well-to-do middle classes A two-party system could have been built on these groups and responsible government eventually attained, but the prospect was spoiled by the growth of other parties concerned with the maintenance of particular interests In 1871 the Catholic party was formed to promote the interests of that church, and the Social Democrats entered the field These wanted socialism first and foremost and eventually had the support of the rapidly increasing class of industrial workers The party advocated internationalism and so aroused the suspicions of the nationalists In the course of time it took in lower-middle-class groups, became the largest party in Germany, and gradually tended toward liberalism with a strong element of social reform, but in the interval it had incurred hostility and suspicion, which made parliamentary cooperation a difficult matter Still other groups arose, including an anti-Semitic party, and before the First World War there were thirteen principal parties, not to mention fragments Most of them pushed their hobbies and cared little for responsible government, which consequently failed to develop The Junkers remained the ruling group, with some aid from the industrialists and financiers, and Germany had only a veneer of self-government This was entirely satisfactory to most of the population, who liked authority and discipline

All the parties supported the war of 1914 although, as it dragged along, some Socialists became restless It was the Social Democrats who led the agitation in the summer of 1918 and the revolution of November Some of them approved of the Russian Revolution and formed an Independent Socialist party, as well as a group which became the Communist party With some savagery the new government suppressed attempts (*putsche*) by these bodies to revolt, and called a constitutional convention to meet at Weimar in the summer of 1919 This produced a constitution of an advanced democratic type, with a President, Chancellor, and cabinet, upper house to represent the

states and lower house to represent the people To the lower house the Chancellor and cabinet were responsible The President was directly elected for seven years, he appointed the Chancellor and might dissolve the house for fresh elections In time of crisis, under the famous Article 48 he might permit the Chancellor to legislate by decree The ordinary citizen received ample assurance of civil rights and enjoyed the initiative, referendum, and recall Elections to the lower house were by proportional representation and promptly produced a multiplicity of parties In general, there were three groupings—on the right, the National party and the People's party, in the middle, the Catholic Center and the Social Democrats, on the left, the Independent Social Democrats and the Communists It was primarily the jockeying and bargaining among these groups, as well as the weakness of the executive, which caused the discrediting of the Weimar Republic and facilitated the rise of the fanatical demagogue who in January, 1933, took to himself as Chancellor the powers of a dictator Abolishing the presidency and soon thereafter the title of Chancellor, Hitler substituted that of Fuhrer, since (after Bismarck) the other titles had been borne by weak, common men

## *AFTER THE DEFEAT*

On June 5, 1945, a declaration of the Allied staffs announced that they had finally taken over from the German military authorities, by now scattered and demoralized, the administration of the entire country, and the same decree outlined their zones of occupation After further negotiation they were made definite The principle of separate occupation had, however, already been laid down at the Yalta Conference, in February, 1945,[2] which called for the temporary partitioning of Germany into four zones of occupation but at the same time provided for a central control commission in Berlin to coordinate Allied policies Later, at Potsdam (August, 1945) the idea was first adumbrated that Germany, on probation for an indefinite period, would even then be "treated as a single economic unit" To this there was an exception That part of Germany east of the Oder and Neise rivers was to go to Poland, as compensation for the territory which Poland had had to cede to Russia in September, 1939 This area contained about 10,000,000 people, nearly all Germans Most of them were to be sent out of the country, beginning the exodus which had left central and western Germany vastly overpopulated and the Russian and Polish zones considerably underpopulated[3]

[2] For Yalta and Potsdam, see (among many others) James F Byrnes, *Speaking Frankly* (New York, 1947), chaps 2, 3, 4, and E R Stettinius, Jr, *Roosevelt and the Russians* (New York, 1949)

[3] This, together with the return of prisoners of war, brings the density of population in the western zones to 200 per square kilometer, as compared with 133 in 1939 for the same area See J P C Carey and M D Hine, "Problems of Expellees," *Foreign Policy Reports*, April 1, 1949, p 28

Theoretically, the Allied Control Commission in Berlin had large powers, practically, it found itself hamstrung by the absence of any German agency with which it could deal Executive power to all intents and purposes devolved immediately upon the Allied commanders in each zone If the latter could generally agree, their decisions would be ratified by the commission, but, as might have been expected, the Soviet commander, occupying as he did a strategic position in Berlin, found few points of agreement with his three opposite numbers If they saw fit to recommend, in time, the setting up of democratic machinery in their realms, such ideas were not likely to meet with the approval of a regime which was feverishly trying to communize all eastern Germany

Hence a national government for Germany was almost impossible from the very start The problem of Russia's antagonism to the three democracies was further complicated by differences of opinion which developed among the three, honestly based to some extent on differing ideas of administration but inspired also by geographical and economic realities Though the United States had suffered from German aggression infinitely more than in the First World War, the prospect of prolonged occupation was no more popular than it had been then, and France and Britain, which after the first war had recovered from Germany some, though not much, of their expenses of occupation, could no longer believe that they at any imaginable moment in the near future would be able to recoup any of their Second War expenses

Certainly there was no prospect of immediate withdrawal for any of the three A premature relinquishment of control would lead to either chaos or a return of Nazism And the Russians could take advantage of either The Soviet zone was the largest and also the richest in agricultural resources Hence if its inhabitants were better fed and perhaps better housed than those in the west, such a happy situation was due to the merits of communism, and those who enjoyed its blessings were expected to pass on the gospel to their less fortunate brethren

Where all four powers agreed was upon the immediate need for denazification In each zone hundreds of thousands of party members were arrested, others identified, with a view to excluding them from the future administration of the country But democrats were few and far between, most of them had been liquidated, those who had managed to emigrate were without first-hand knowledge of Nazi conditions or experience in administration Nazis who suddenly saw the light and proclaimed a touching devotion to democratic ways had to be properly screened, and in many cases time was lacking for a thorough job Up to the very end of the regime, Nazi discipline prevailed The leaders had asked the people to oppose all collaboration with those who would occupy the country, and in particular had urged young Nazis to constitute bands of clandestine resistance, the most formidable of which was known as the Werewolf For a while its activity was alarming Several

burgomasters who had been appointed by the Allies were assassinated, and some damage was done to reconstruction as it was gradually getting under way But never were these sporadic outbreaks punished with anything like the severity with which the German army of occupation had repressed the work of the French *saboteurs* and underground

The German people obeyed with characteristic servility the regulations of the occupying powers They were not repentant The great majority regretted their defeat, not the war They claimed that they had no responsibility for the crimes of Hitler Henceforth they were not interested in politics At the beginning they feared the Russians, for of them Goebbels' propaganda had painted a terrifying picture The Germans nourished the hope of a conflict between the Russians and the Anglo-Saxons of which they would be the beneficiaries, never realizing that such a war would be largely fought on German soil

Reeducation was difficult, not only were teachers lacking but books, equipment, everything Material preoccupations were of primary concern Reconstruction of political parties and of trade unions interested, at first, only a small minority The war prisoners were rapidly released, and from the east 9,000,000 returned to occupy the western zones, the most damaged, the least provided with food The housing situation was incredibly bitter,[4] the Allies had to bring in, from their own denuded fields, grain and vegetables But these privations were those of all liberated Europe On the other hand, on account of the pillage of European resources during the war years, the German population was better fed and clothed than that of any of the liberated states

On September 1, 1945, Marshal Zhukov installed in Berlin a central government for the Soviet zone, without previous agreement with the other commanders The common policy envisaged at Potsdam was unrealized, and henceforth unrealizable The frontier separating the Soviet zone from the others, hermetically sealed, aggravated this lack of coordination Bavaria was the only state which declared herself in favor of a federal constitution for the new Germany, perhaps hoping that the leadership formerly exercised by Prussia would fall to her

In miniature, the situation in Berlin paralleled that in the west It had been agreed that Berlin should be administered by an Allied *Kommandatura* established in July, 1945, each of the four commanders to hold the post of chief commandant in rotation It was obviously an unsatisfactory solution

[4] One of the most vivid of all the many descriptions of everyday life in occupied Germany is E W Griffiths' "Retrospect in Germany," in the *Yale Review*, Autumn, 1949, pp 96-107 "Cologne, like many other towns, burned for days Pompei could hardly have been worse London was hardly comparable, for Cologne, a city one-sixth the size of London, received nearly five times as many tons of bombs"

of the control problem, since the commandant of the moment could issue orders which, though only temporarily binding, could nevertheless throw the whole great city into confusion if his successor changed them on his advent to power But the four continued to meet until June, 1948, when the Soviet general withdrew and the Allied command was necessarily reconstituted on a three-power basis, the city being practically divided in two Before the break, the four had agreed on a date for elections to a city assembly as the preamble to an assumption by Germans of control of their own capital But no elections were held in the Soviet sector, and Communists, Russian and German, attempted to interfere with the conduct of the elections in the other areas of the city Those who went to the polls were surprisingly numerous in view of the difficulties—from 74 percent in the French sector to 90 percent in the British and American Clearly the result was an anti-Communist demonstration

In the meantime the western powers, discouraged by the growing deadlock in the Allied Control Council in the winter of 1948 and fearful of the complete collapse of Germany because of its lack of economic unity, had gone ahead with their plans for West German economic and political recovery Their primary concern was perhaps the currency reform, necessitated by the uncontrolled inflation, which in turn had been aggravated through issuance of unlimited and undefined quantities of paper money by the Soviet military administration

On June 18, 1948, the three democracies agreed on a modified type of currency reform, which the Soviet authorities perhaps feared would in time restore prosperity to the area controlled by the three If Russia cannot pose as the author of prosperity she will, of course, have none of it, and immediately she imposed the first of the prohibitions which together came to be known as the Berlin blockade How could she do this since the city is ostensibly not under the control of any single power? Because the Soviet government claimed Berlin as part of its zone (and a glance at the map will show the geographical justification for this) and argued that the quadripartite accord for joint occupation of the city was inseparably linked to the agreement for four-power administration of Germany which broke down because of the actions of the western powers Therefore, ran the Soviet argument, as the one had gone, the other automatically ceased to have validity, and the western powers no longer had any legal right to participate in the Berlin administration, or even to enter the city without Soviet permission The Kremlin had stated that it would lift the blockade only after a new agreement on currency and credit control was reached The determination of the western powers to maintain their rights in Berlin was vividly dramatized by the bridge of airplanes, called by Anne O'Hare McCormick "the one great demonstration of western power behind the Iron Curtain," which from the summer of 1948

to the spring of 1949 flew over a million and a quarter tons of food into the wretched city On May 9 the Soviet governor gave way and issued orders for the lifting of the blockade, which had lasted for 328 days

The military governors of the three western powers probably had a more delicate job than has ever fallen to the lot of occupying victors As best they could, they had to keep Germany going, economically, they had to feed and clothe her, they had to prepare her for political independence, continually they wondered whether, after all, eastern Germany was completely lost to democracy, and each had to adjust as best he could to attitudes and actions on the part of his colleagues which were often foreign to his own country's traditions and ideas The American military governor was responsible to the Department of the Army, the British, to the Foreign Office, the French, to the commander in chief, who in turn was responsible to the commissariat general for German affairs in the Ministry of Foreign Affairs On April 8, 1949, it was announced that they would all be replaced by civilians, appointed with the title of High Commissioner

This decision was part of a new agreement on control machinery, which expressed the desire of the three powers to extend self-government to the German people "to the maximum degree possible" consistent with the occupation It reserved for the High Commission such matters as controls for the Ruhr, disarmament and demilitarization, civil aviation, reparations, foreign affairs, and foreign trade and exchange The continuance of all these controls, even though henceforth to be exercised by civilians, met with a good deal of German criticism, particularly from the Social Democrats, who charged that the continuance of control over foreign trade was dictated by western fears of German competition However, the agreement overcame one important obstacle to the creation of a German government and paved the way for negotiations between the occupied and the occupiers on the constitution

## Chapter 52

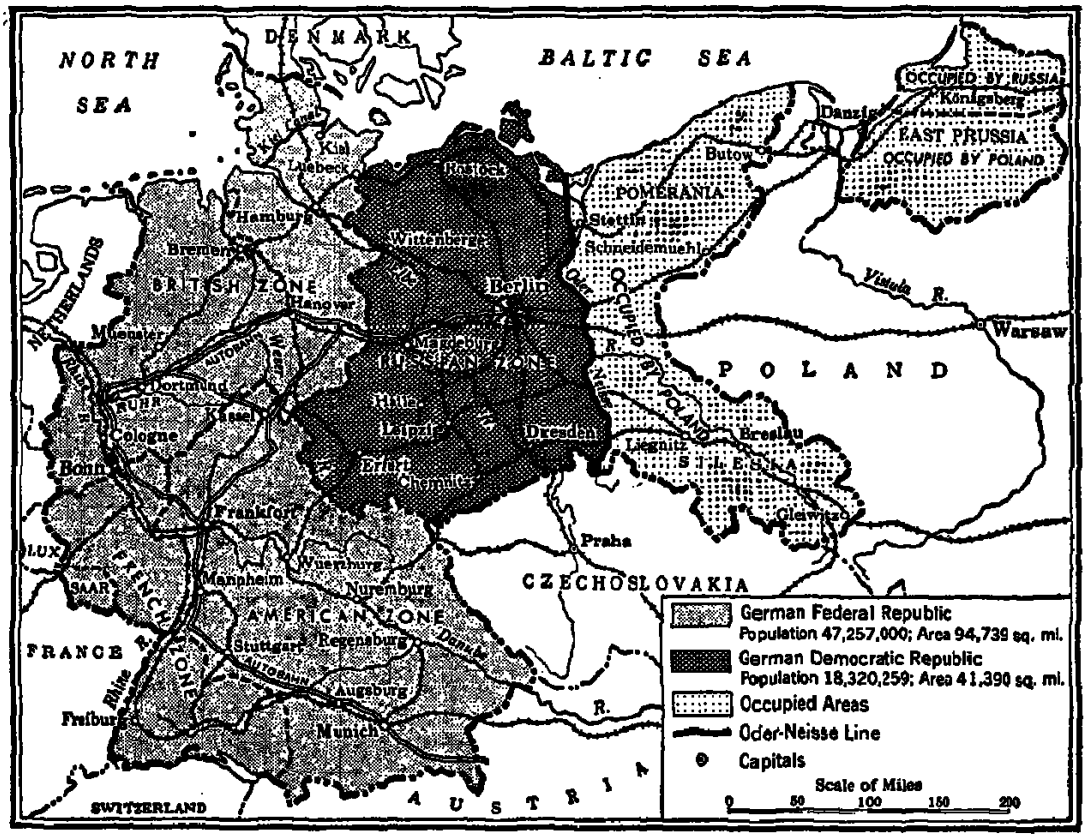
# *Steps Toward Self-Government*

At about the same time as the elections were held in Berlin, the American authorities set up election machinery in their zone for local and *Land* (state) elections, and the other two powers followed suit, though there were no constitutions of the states in the British zone, and in the French the governments authorized by the constitutions were only executive organs of the occupying power In the American zone the states of Bavaria, Hesse, and Wurttemberg-Baden were created by General Eisenhower as early as September, 1945, Bremen was added in 1947 The Americans, possibly inspired by their own constitution, proceeded on the theory that all powers were to be vested in the *Lander* except such as were expressly delegated to a central government, soon to be established

The states in the British zone are North Rhineland-Westphalia (capital, Dusseldorf), Lower Saxony (Hanover), Schleswig-Holstein (Kiel), and Hamburg The British, perhaps realistically, saw no need for allowing them the luxury of constitutions but dealt locally with each state through its own parliament This parliament appointed local officials, who were approved by the regional commissioner The French allowed the Germans even less responsibility In their states, Rhineland-Palatinate (capital, Mainz), South Wurttemberg (Tubingen), and South Baden (Freiburg), the elected legislatures are forbidden even to discuss certain questions The Soviet zone includes Thuringia (capital, Weimar—shades of Goethe!), Saxony (Dresden), Saxony-Anhalt (Halle), Mecklenburg (Schwerin), and Brandenburg (Potsdam) Here too state legislatures have been elected, but none of the three approved parties (The Social Democratic party, the Christian Democratic Union, the Liberal Democratic party—also called the Democratic party of Germany) are allowed to act as an opposition, but are obliged to follow a "bloc policy," controlled by the Communists

The failure of political efforts to coordinate the policies of the occupation, as well as the interests of the United States in participating in the control of the Ruhr area, brought about an agreement, on May 29, 1947, between the American and British zone commanders, who created the "combined eco-

nomic area" (generally called Bizonia) through identical legislation, in order to unite the American and the British areas, if not politically, at least economically. The German administration which was then set up was made superior to state laws and state constitutions in the domains of economy, transportation, food, and labor, but both military governments reserved the right of veto. The French policy regarding reparations differed somewhat sharply from the others', just as it did in 1919; France's plans for the Ruhr




The Two Germanys—as a New Phase in the Struggle Opens. (From *The New York Times*, October 9, 1949. Reproduced with the permission of *The New York Times*.)

involved, if not annexation, demands for the coal and iron which she desperately needed; and to only a minor extent did "Bizonia" become "Trizonia."

## *THE GROWTH OF PARTIES*

The revival of old parties, or the creation of new, was slow. Even the parties which finally got on their feet from 1946 to 1948, allowed to exist only by virtue of military government license, were considered by most Germans as mere mouthpieces for the occupying powers. The ideas of the powers on future German politics are in general a reflection of their own traditional systems. The British want a strong central government, so they favor the Social Democrats. The French, naturally shuddering at the thought of seeing once more a strong Germany, desire a loose federal structure with the chief

power in the separate *Lander*, and so they favor the Christian Social Union, the chief strength of which is in Bavaria The position of the United States seems a middle-of-the-road solution a federal organization but with strong state governments, and so it plays no favorites

## *PARTY PROGRAMS AND LEADERS*

The Free Democrats (strength in the 1949 Bundesrat fifty-two) is in general the most conservative of all, though its program varies with the locality It ran only third in the election but is the fastest-growing and most strategically situated of all the parties The word "Democratic" need not be taken too seriously Germany is full of groups and organizations with a respectable democratic figure out in front and dubious, compromised characters in the background Almost every one of the large parties has the title "Democratic" somewhere in its name, a sure sign of how meaningless the term has become The leaders of the Free Democrats campaigned on a platform of free enterprise in its purest form When the index of industrial production was 28 in 1947, theirs was not a very popular political program In the spring and summer of 1949, with the index at 90, it was Their second basis is the complete separation of church and state This means that the Protestant middle class is again a political force in Germany It is to this class that the Free Democratic prescription—capitalism, anticlericalism, and strong, centralized government—makes its greatest appeal

The leader of this party was elected President of the West German Federal Republic on September 12, 1949 Professor Theodor Heuss, sixty-five years old in 1949, had done more than any other member of the Parliamentary Council (constitutional convention) to create the republic's constitution and to establish a worthy parliamentary tradition, which the Bundestag now inherited By his training as a historian and by his study and practice of the liberal principle in politics Heuss is particularly well qualified for his new duties When he said, on his election, that "we are faced with the great task of creating a new national feeling," he meant it, not in the sense that Bismarck or Hitler meant it, but in the sense that the same or similar words were used at Frankfort over a century ago [5]

[5] As previously explained, the leaders of German liberalism had summoned a preliminary parliament to meet at Frankfort to prepare for the election of a national assembly out of which it was hoped that a new Germany would arise through the peaceful process of discussion That assembly, which met on May 18, 1848, contained some of the finest characters and noblest minds in Germany It produced a democratic constitution for united Germany, of which there was no feature more valuable, and more needed, than a long array of scrupulous provisions for the protection of personal liberty Yet its work was in vain, thanks largely to the reactionary tendencies of the monarch It is one of the tragedies of modern history that this assembly, launched on a vast surge of national enthusiasm, was unable to accomplish its self-appointed task, and that the union of Germany was achieved, not by the give-and-take of parliamentary argument but by the blood and iron of civil and foreign war

The *Christian Democratic Union* (strength in the Bundestag 139) is a heterogeneous collection of rich and poor, employers and trade unionists, Protestants and Catholics, Bavarian farmers and Ruhr miners It has no program which can be considered valid for all of Germany It agrees with the Free Democrats in emphasizing the necessity of basing the state on the inviolable rights of person and property, although the more progressive wing, numbering about forty of the 139, champions a still undefined Christian socialism, apparently including the socialization of politically dangerous concentrations of wealth This is the main difference between the two factions The party as a whole favors the right to have religious instruction given in the schools

The leader of the party was elected, by the margin of one vote, first Chancellor of the republic Dr Konrad Adenauer, seventy-three years old in 1949, is a Rhinelander and acquired his administrative competence as burgomaster of Cologne from 1917 to 1933, a position which he resumed in 1945, but in 1946 he was dismissed by a British military government official He has always favored a federation of German states, and after the first war grew quite serious about the idea of an independent Rhineland, a fact which makes him highly acceptable to the French, less so to the British He has made his coalitions with the right rather than the anti-Communist left, he fears the Social Democrats both for their socialism and for their insistence on a strong central government Convinced that most Germans would rather run part of their country themselves than have the Russians participate in running all of it, he has been cool toward Berlin and the eastern zone, despite the desire of many of his colleagues to revive trade with the east

The leader of the left wing of the Christian Democrats is Karl Arnold, forty-eight years old in 1949, Speaker (president) of the Bundesrat (upper house), which post he secured chiefly by virtue of his position as minister-president of North Rhineland-Westphalia He was trained as a leatherworker and fought his way to the top of his trade union During the Nazi regime he somehow managed to live in oblivion, from which he emerged to participate in the plot against Hitler of July 20, 1944 In 1945 the British installed him as mayor of Dusseldorf

The *Social Democratic party* (strength in the Bundestag 131) is the counterpart of the Socialists in France and the Laborites in England, favoring a socialization of key industries and cooperative management of a large proportion of light industry and the distributive trades But only in theory do Social Democrats agree with Frenchmen or Englishmen They disagree with the French Socialists on the Saar question and the Ruhr statute [6] By pushing the dismantling of German factories the English Prime Minister probably cost

[6] The French contention is that there should be international control not only of distribution but also of the production of the Ruhr's industries Back of this view lies France's traditional fear of a strong Germany, for whose resurrection the Ruhr industries

the Social Democrats a good many votes The other German parties suggested that dismantling was connected with socialism, and that proved to be an effective campaign device

The party's leader is Dr Kurt Schumacher, fifty-four years old in 1949, who was one of the two among all the prominent German politicians of today who opposed the Nazis vigorously enough to be sentenced to long terms in concentration camps In all Germany he is perhaps the chief opponent of the Soviet Union In his opinion, the Russian leaders have not only violated law and humanity in their domestic and foreign policies but, even worse, they have slandered Marxism and discredited socialism

The *Communist party* (strength in the Bundestag fifteen) has as its goal the typical social and economic revolution but avoids the question of whether or not it would have Germany join the Soviet Union, or if so on what terms Surprised by their poor showing in the 1949 elections, the Communists resorted to the device of setting up window-dressing parties under another name, the most important of which is the National Front The Communists assert that Germany is a "colonial problem" and they are waging a struggle of "national liberation', Germany is put in the same class in their propaganda as Spain, Greece, and Puerto Rico This "colonial" theory serves two ends It provides a political basis for Communist-Nazi collaboration (cf the Nazi-Soviet pact of 1939) on the ground that the all-important issue is "national" not "social," and it enables the Germans to think of themselves as a poor, oppressed people who are paying not for their own sins but for the insatiable greed of American profiteers In other words, the weaker the Communists are, the more they need allies, and the most easily available allies against the United States are on the extreme right—those who have remained Nazis

The Communist leader in West Germany is Max Reimann, fifty years old in 1949, who started life as a miner, became a Communist functionary in the early twenties, and spent six years in a concentration camp As a member of the Bundestag "cabin'd, cribb'd, confin'd," with only fourteen followers, impishly he votes most often with the Social Democrats, much against the wishes of the latter

In addition to the foregoing, there are numerous parties which exist on practically a local scale, although they may possess greater strength regionally

would be indispensable The Ruhr has become the focal point of French fears to an even greater extent now that the industrial areas of Upper Silesia and the Saar have been in practice transferred to Poland (and hence perhaps to Russia) The Ruhr area produces about 90 percent of the steel and 70 percent of the coal and iron left to Germany In 1947 the French put forth a plan for international ownership of the Ruhr industries in which steel production would be maximized, particularly for export to France to build up the Lorraine steel industry The plan was largely accepted by the other two powers Said President Auriol in a speech on November 11, 1948 "It would be unpardonable to return the arsenal of the Ruhr to the accomplices of Hitler"

than any of the four main or national parties These, with their representation in the Bundestag, are, again reading more or less from right to left [7]

| | |
|---|---|
| Bavarian party A predominantly monarchist, separatist group | 17 |
| Economic Reconstruction League "Another special brand of Bavarian fuhrer mentality" | 12 |
| The German party A chauvinistic group, mainly in the British zone | 17 |
| Center party Also in the British zone | 10 |

And, for the sake of completeness, these should be added

| | |
|---|---|
| German Right party An ultranationalist, militarist group which receives encouragement from the Soviet military administration, who would be delighted to see extreme nationalism revived in West Germany to support the Russians' "unity" campaign | 5 |
| Independents | 3 |
| South Schleswig Association | 1 |
| Total of the major and minor parties, | 402 |

## *EFFECT OF THE ELECTIONS*

The 1949 elections were the first free elections held in Germany since 1933 Nearly 80 percent of those eligible went to the polls to elect representatives to the lower house of the new West German government, the *Bundestag*, which convened at Bonn on September 7, 1949 The Communists suffered a striking defeat, even in the industrial areas of the Ruhr, winning only 1,360,443 votes This defeat, generally attributed to the growing unpopularity of Russia among the Germans, caused some people to wonder whether the danger of German communism had not been generally overrated As striking as the defeat of the Communists was the victory of the rightist parties

In the United States the election was hailed as a demonstration that the Germans, to quote the title of a New York *Times* editorial, were "for democracy" American satisfaction was based primarily upon the poor showing made by the Communists The middle-of-the-road Christian Democrats, having only eight seats more than their nearest competitor, turned to the purely rightist parties for help and coalition material To what extent will this force them to accept the near-Nazi ideas of the more militant rightists (as chiefly represented by the German party) who are now emerging from postwar obscurity? Allied occupation policies will answer that question On one point all German parties were in solid agreement in their election propaganda That was in their vigorous, unrestrained denunciation of the occupying powers, coupled with demands for restoration of Germany's prewar boun-

[7] Some of these characterizations of the party programs and leaders have been paraphrased or quoted from articles by Theodore Draper and John Scott in the *Reporter*, special issue on "The New Germany," October 11, 1949

daries, including the Saar (which France wants to annex economically) and the territories of eastern Germany "assigned" to Poland at the Potsdam Conference pending conclusion of a definitive peace treaty The American Secretary of State did not wholly share the confidence of the *Times* While welcoming the results as a "victory for moderation and common sense,' he noted the sharp criticism of the occupying powers and warned that "abuse of such freedoms [sic] may alienate western sympathies while failing to serve the best interests of the German people"

It was to be expected that German nationalism would reassert itself the moment Allied controls began to be whittled down, and Americans who had hoped to reeducate the Germans in a few years within the framework of a necessarily authoritarian military government had not taken the strength of German traditions sufficiently into account Professor Carl J Friedrich[8] makes an interesting comment on this point

> Rationally speaking, it seemed so easy, once all the structures of the past had been swept away by unconditional surrender, to "build democracy from the grass roots," and eventually to arrive at one of the proven workable schemes of democratic government, whether it be the American, the Swiss, or the British But the "grass roots" upon which the conquerors stood were, symbolically speaking, the Catholic Bavarian village and the Marxist trade union Authoritarian faith and economic parochialism—these were the two roots of local community which, by grafting a synthetic nationalism upon them, the imperialism of Bismarck, the utopianism of Weimar, and the racism of Hitler had sought to exploit in turn

## *AT BONN*

What Americans would call a constitutional convention was given the name in western Germany of Parliamentary Council This group, consisting of sixty-seven members,[9] met in Bonn from September 1, 1948, to May 8, 1949, and on the latter date adopted a draft "constitution" ("basic" or "fundamental law" in the text) by a vote of fifty-three to twelve Two days later it chose Bonn as the capital Why did they not use the word constitution? Primarily because the idea of a dismembered Germany was abhorrent, and the word *constitution* has implications of permanency Therefore, the preamble emphasizes that the "fundamental law" is merely intended for a period of transition and that there remains for all Germans the task of "completing their unity and freedom" when this is possible "This fundamental law," says the last article, "loses its validity on the day when a new constitution comes into force, which is voted by the German people in free decision"

[8] See his two excellent articles, "Rebuilding the German Constitution," *American Political Science Review*, June and August, 1949, pp 461-482, 704-720 From them some material above has been taken or paraphrased

[9] The method of choosing them was indicated by the military governors to the minister-presidents, they suggested an electoral quotient of 750,000 per delegate

The more important issues confronting the Parliamentary Council were these (1) whether Germany continues to be a state, (2) the flag,[10] (3) the inclusion of Berlin, (4) legislative authority and its division between the federal government and the states, (5) whether to make the upper house of the legislature a true senate or a council in the German tradition, (6) whether to have a President, and if so how much power to give him, (7) how to prevent frequent cabinet changes, (8) whether to provide for judicial review of legislation, (9) whether to continue the German tradition of delegated administration of federal legislation, (10) how to organize fiscal administration, (11) the problems resulting from the discontinuance of German government after unconditional surrender[11]

The drafting committee of the Parliamentary Council finished its work on February 11, 1949, and submitted the result of its labors to the military governors, on the probable theory that German self-respect could better be served by noting the Allied objections to a preliminary draft rather than undergoing the embarrassment of being compelled to change a finished product Numerous were their objections, and harsh and humiliating[12] To the Germans the governors' statements were a contradiction of the agreement drawn up a few months previously in London which seemed to give the Germans broad powers when they should get at the drafting of their constitution

When the constitution received the final vote on May 8 (fourth anniversary of unconditional surrender), it had been so studied and amended by the military governors that they could give it their approval without further delay In their letter of approval, May 12, the governors noted that acceptance of the constitution was premised upon the understanding that all governmental power in Germany, federal, state, and local, is "subject to the provisions of the occupation statute" This they promulgated as of May 12[13] It is clear that, in a substantive sense, the constitution of Germany is compounded of the fundamental law and the occupation statute

[10] The colors of the existing flag, it was said, indicated gold for the past, red for the present, black for the future

[11] Problem 11 raises the vitally important point, connected only remotely with the subject of this section, of the wisdom of unconditional surrender The eleven points were submitted as a partial agenda by the minister-presidents of the states

[12] These negotiations are described by Friedrich, *op cit*, p 481

[13] It amounts essentially to a statement of reserved powers, linked with a grant of the remaining legislative, executive, and judicial powers to the German governments, subject to review by the Allies Foreign relations, foreign trade, reparations, level of industry, decartelization, disarmament, and demilitarization, as well as the protection and security of the occupying forces, are among the major fields The statute also establishes the principle that the occupation powers are primarily concerned with the maintenance of the constitution Indeed, it makes them, in effect, the guardians of the constitution by requiring unanimous approval of any constitutional changes

## *THE CONSTITUTION*

Does the constitution undo Bismarck's work of unification? If so, then his great achievement would seem to be artificial, based on fear and ambition rather than an understanding of the temperament and traditions of the German people And if it gives the states undue power, will it not lead to a situation of jealousy and rivalry among the stronger, and among the weaker a tendency to form blocs? Obviously much of the Bismarckian work is undone, it could not be otherwise with the occupying powers acting as guardians of the instrument "The new state," explains Friedrich, "is more federal than Austria and Canada, about as federal as Switzerland and the United States, [somewhat] less federal than the [Hohenzollern] German Empire" However, if it is similar to the Swiss and American ideas of a federal state, its parliamentary government is organized on the French model, "with interesting modifications derived from British practice, more especially the right of the Chancellor (Prime Minister) to propose dissolution of the representative assembly to the president This watered-down power of dissolution is balanced by restrictions upon the Parliament's power to overthrow the government, it can do so only by electing a new Chancellor It is strange that the Germans should thus have returned to a system of parliamentary government which experience has shown not only in Germany but in France and elsewhere to be a feeble form of democratic government, compared to the American, Swiss, and British systems"

Is the new Germany a true federal state? Probably more so than Weimar Germany A true federal state requires for its formation two conditions, the absence of either of which would suffice to prevent the consummation of such a union The first condition is a sense of nationality among the units federating So true is this that we generally find that modern federal states have, prior to their federation, been either loosely connected in a confederation, as in the case of Germany, or subjected to a common sovereign, as in the case of the United States, Switzerland (where both situations existed), Australia, and Canada The second condition is that the federating units, though desiring union, do not desire unity, for if they desired the latter they would form not a federal but a unitary state It is obvious, therefore, that a federal constitution attempts to reconcile the apparently irreconcilable claims of national sovereignty and state sovereignty Whatever concerns the nation as a whole is placed under the aegis of the national or federal authority, whatever concerns the states individually and is not of vital concern to the common interest is placed under the control of the state governments

The new pattern of federalism is built on that of the Weimar Republic Any such pattern must be complicated, even puzzling and exasperating, to those without considerable historical background, to those who forget that federalism has had a very long history in Germany The breakup of Charle-

magne's empire in 814, the havoc wrought by feudalism, the centuries-long disintegration of the Holy Roman Empire, the Napoleonic creation called the Confederation of the Rhine (1806-1814), the Germanic Confederation (1815-1866), the North German Confederation (1866-1870)—these were all inefficient, easily disintegrating instances of federalism in its loosest form The republicans of 1919 seemed to have read their history to good advantage In that year the first democratic constitution which Germany has ever had distinguished carefully between the powers of the federal government and those of the states If there arose difference of opinion as to whether state law was compatible with federal law, an appeal had to be made to the Supreme Court for a more exact interpretation of the federal law Under Weimar, the lower house *(Reichstag)* became a real legislative body, the upper house *(Reichstat)* was still made up of appointees of the state governments, but its power was greatly diminished Thus there were present in Weimar Germany what Strong terms[14] the three essential characteristics of federalism—the supremacy of the constitution, the distribution of powers, and a court to interpret in cases of conflict between the authorities dividing the power That was the constitution which Hitler overthrew It was in many of its social provisions ahead of its time, but it was natural that it should be used by the occupying powers in considering how they might gradually restore to the Germans the political control of their country The Bonn constitution retained the two houses, with their traditions of liberal democracy, and many of the other federal features of the Weimar document

## *CONSTITUTIONAL EXPERIMENTS*

The German constitution is no less interesting for novel ideas than the French Proportional representation remains as a partial relic of Weimar, but watered down The election law is a curious mixture of P R and majority representation Three-fifths of the seats in the Bundestag, apportioned among the states, are filled through elections in single-member constituencies, the remainder by figuring the same votes proportionally and applying them to state lists This Professor Friedrich terms a mongrel system and fears that it will neither give a clear-cut majority, which of course is the virtue of the majority system, nor "reflect justly' the distribution of political sentiment among the electorate, which is the purpose of P R

The *Bundestag* is elected for four years Between sessions what can happen? The executives of democracies are likely to heave audible sighs of relief when Congress or Parliament adjourns, for two or three months they make interim appointments (which may or may not be confirmed when representatives reconvene) and can in other ways enjoy life This the Germans do not approve While the Bundestag is on vacation *vox populi* is not necessarily silent, the constitution provides for a permanent committee to guard the

[14] C F Strong, *Modern Political Constitutions* (London, 1949), p 121

rights of Parliament It has of course no rights of legislation, but all the duties —and presumably none of the pleasures—of a watchdog

What is the difference in powers between the Federal Council *(Bundesrat)* and Federal Diet (*Bundestag*)? Is their relationship comparable to that between the French Council of the Republic and the National Assembly? To some extent only Article 50 states merely that through the medium of the Bundesrat the states shall participate in the legislation and the administration of the federation But its role seems chiefly limited to finance Its consent is required in concurrent legislation regarding taxes, but it does have an important share in certain federal administration, e g , in the matter of general administrative ordinances *(Verwaltungsvorschriften)* for which the council's consent is required Each state has three votes, those with more than 2,000,000 inhabitants four, those with more than 6,000,000, five Each state votes collectively, presumably after a caucus If the Bundesrat is to preserve the traditions of the upper house in Wilhelminian and Weimar Germany, its members will be officials of state governments

## *THE PRESIDENT AND THE CHANCELLOR*

The President is elected for five years The constitution provides for an interesting combination of the French and English systems the French, in that the President is elected by Parliament and has small powers, the English, in that the cabinet [15] is dominated by the Chancellor, the English too, in that the President cannot act except with the countersignature of the Chancellor The President, as in the case of the other two democracies, appoints the Chancellor but the Bundestag elects him If it fails to approve the President's nominee, it itself elects a Chancellor who must be appointed by the President (unless he cares to take the dangerous step of dissolving the Bundestag) The ministers composing the cabinet are appointed by the President upon nomination of the Chancellor If the Chancellor is the leader of a solid majority, he will presumably proceed to gather his party co-leaders around him If no such majority exists, the Chancellor-designate will try to build a coalition, in which case he will feel impelled to present his ministry at the time the election is before the Bundestag, in other words, the French rather than the English system

For the election of a President a majority of those members of the Bundestag who are present is required If there is no choice on the first ballot, another is taken If there is still no majority, the procedure changes, and the candidate with the highest number of votes is declared elected Thus a rightist or leftist group which has no majority, but is stronger than any other group, can refuse any compromise on the first two ballots and elect its own candidate on the third Under a system of P R this implies that there is no need to pay

[15] A rough translation of *Regierung*, which more properly means government or administration

attention to the moderate elements which, under a two-party system, tip the scales between the major parties and for which, under P R , the center parties form a rather weak substitute

## *MINISTERIAL STABILITY*

If the reader of these pages has been impressed with the seriousness with which the French regarded the question of ministerial stability, he will wish to know what the Germans did about it—whether they followed the French or the English pattern, or indeed whether they devised one of their own Naturally the cabinet must be responsible to Parliament But how to protect people against reckless "crackpots" who might combine (although such people usually do not) to throw the cabinet out for the mere sake of change, as was done in the days of Weimar? [16] Such a possibility was repugnant, to guard against it, the constitution makes an overthrow of the government depend upon the election of the next Chancellor, the vote of lack of confidence does not in itself destroy the government's position

If the Chancellor feels that the relationship between him and the Bundestag is too uncooperative for satisfactory legislation, one of several things may happen Patiently he may wait for the next election, he may himself bow to the inevitable and resign, or, greatly daring, he may ask the President to dissolve the Diet While the President is deliberating, the Diet may itself act, it may elect a new Chancellor, but unless it does, the dissolution, if the President so decides, stands A dispute on this matter between the President and the Chancellor is something which the constitution does not discuss A sensible President, like a wise King, takes his Chancellor's advice

## *THE LEGAL SYSTEM*

In this realm there is necessarily more room for speculation than perhaps in any other Besides the constitutional court, with rather definite functions, the basic law established a Supreme Federal Court concerned with maintaining the "unity of the legal order," [17] all the more necessary perhaps in a federal state with varying systems of procedure Article 104 develops a fairly tight judicial control of the *habeas corpus* type, going further than Weimar, which still took for granted the traditional system of law enforcement developed by liberal jurists during the nineteenth century, experiences under Hitler's dictatorship made it evident that basic safeguards should be secured through explicit constitutional provisions

[16] Only one of the many governments of the Weimar Republic was overthrown by a vote of censure, the others resigned on account of dissension among the parties composing the coalition

[17] Cf the French *Cour de cassation*

## *FISCAL AUTHORITY*

The basic principle of fiscal authority is enunciated in Article 109 Federation and state *(Bund* and *Lander)* are autonomous and independent of each other in their fiscal economy The Bund has the exclusive legislative authority which Americans would expect it to exercise, such as customs duties and fiscal monopolies It has concurrent legislative authority over the vital tax resources of modern government income, estate, gift, and inheritance In other words, both federal and state governments can presumably levy certain taxes, such as that on incomes, just as do the national government and many of the states of our federal union

The basic law, as will be seen by turning to it, is one of the longest and most complicated of modern constitutions A discussion of many sections of it has to be omitted for sheer reasons of space But it must be remembered that the only previous experience of the Germans in the art of self-government had lasted for a mere thirteen years, an experiment requiring for success not only good will and patience on the part of the Germans themselves but, just as necessarily, sympathy and support from their erstwhile enemies The experiment was beginning to show results when the depression struck Hitler seized power in January, 1933, under the only provision of the Weimar constitution which gave the President any authority The constitution was never overthrown by a really popular vote

Why was not the fate of the new basic law placed in the hands of the people, as was the French constitution in 1946? For adoption votes by the state parliaments were all that was necessary There was no popular referendum provided, mainly because of fear of Communist and Nazi influence, even in western Germany It has been calculated that the votes of those parliaments which approved the law (and all in western Germany did so except Bavaria) represented 65 percent of the people in all that area, which would be well over half of all the people of Germany So, states the Preamble (perhaps not quite accurately), the basic law represents those Germans who were prevented from participating, it treats the accession of the states of the eastern zone and Berlin as merely a matter of time In fact, the Bonn assembly wanted to include Berlin, but the military governors were obliged to request [18] that Berlin be not granted voting membership in Diet and Council—although the city may send representatives without voting rights

## *AFTER THE ELECTION*

The principal issue raised by the elections was whether in Germany economic control can continue to be divorced from political responsibility without jeopardizing the prospects of eventual democracy Many Americans

[18] Friedrich, *op cit*, p 719

who believe that there is an intrinsic connection between democracy and free enterprise have assumed that the Germans before 1939 had free private enterprise in our sense of the term and that, once it is restored, they will have democracy But in Germany control of the nation's production potential, which is also its war potential, has long been highly concentrated in a few hands [10] Even the Weimar Republic proved helpless to regulate the vast power held by a group of conservative industrialists who ultimately decided to throw their resources behind a demagogic leader in the hope that Hitler's form of extremism would safeguard them from the extremism of communism Will the same process be repeated? Is it realistic to speak of "free private enterprise" in Germany, where before 1939 large-scale industries, notably the steel and coal concerns of the Ruhr, combined into powerful cartels which prevented genuine competition by controlling production and prices, and where the choice, even before Hitler, had seemed to lie between capitalistic monopolies and some form of socialism? And can the United States hope to proceed with what may be called decartelization, which up to 1949 was relatively sketchy, once the West German government has been established, without antagonizing industrialists who support the rightist parties?

The problem of fitting into the international trade pattern, either within Europe or elsewhere, $2,500,000,000 to $3,000,000,000 worth of German exports, exclusive of coke and coal, will be a major one for both American and European economy Western Germany's production in 1948 had reached nearly 80 percent of its 1936 level whereas her exports were only one-sixth those of prewar days The new move serves to give her immediate competitive advantage

## *ADENAUER'S PROGRAM*

At least the Chancellor is frank in stating the objectives of his government Necessarily simplified and immensely shortened, they amount to these His first objective, as has been implied, is to push ahead with intensive industrialization His second is a progressive reduction of Allied influence which will lead to a withdrawal of the occupation forces The third is to incorporate into the new Germany the German refugees from the east, which would give Germany more workers, though most of them would have to be trained, incidentally, it would mean a further strengthening of the right His fourth aim is to achieve de facto international autonomy, with participation in international technical conferences With the start that he has made, it can be predicted that by 1953 or thereabouts, Germany—even truncated—will be once again the first industrial country of Europe

The first and second points of his program received considerable implementation at a meeting of the three western foreign ministers in November, 1949, followed by a visit of Secretary Acheson to Bonn The western con-

[10] As pointed out by Vera M Dean in *Foreign Policy Bulletin*, August 26, 1949, p 2

cessions represented a compromise between French fears of Germany and American fears of the USSR as well as the growing desire of Congress to relieve taxpayers of the billion-dollar-a-year German burden The agreement stipulates the gradual reestablishment of German consular and commercial relations with other countries,[20] relaxation of restrictions on German shipbuilding to the extent of allowing construction of certain types and numbers of ships, especially ocean-going vessels (except passenger ships), promotion of West German participation in international organizations "where German experience and support can contribute to the general welfare," including (and this is obviously very important) the Council of Europe, and cessation of dismantling of all plants in Berlin and of certain steel, synthetic rubber, and oil production plants of great importance, such as the Thyssen works which alone accounted for 10 percent of German prewar steel capacity

The Bonn republic in turn pledged full cooperation with the military security board (established in December, 1948) to carry on inspections to prevent the resurgence of German military power The republic also agreed to maintain demilitarization within its borders and to "endeavor by all means in its power to prevent the re-creation of armed forces of any kind", to eradicate Nazism from German life and institutions and to prevent the revival of totalitarianism in any form Thus far the German part of the accord merely reiterates generalizations agreed to previously and now again expressed as pious hopes The crux of the concessions was perhaps Germany's agreement to join the International Authority for control of the Ruhr (see page 882, footnote) Until this time the Germans had steadily refused to admit the validity of the international agency established in April, 1949, to divide coal, coke, and steel from the great Ruhr industrial area between German consumption and export

In the west, especially in France, fears of a resurgent Germany were not allayed by the concessions just outlined The French National Assembly accepted the agreement with considerable reluctance by a vote of 334 to 248 [21] During the debate in the Bundestag, Schumacher, the Social Democratic leader who called Adenauer "Chancellor of the Allies" and denounced the agreement as a sell-out to the western powers, was expelled from the house He had been arguing that the Chancellor should not have agreed to German entry in the International Ruhr Authority, Adenauer had maintained that the western allies had insisted on it as the price for ending the dismantling program Schumacher was reinstated when the two agreed on a formula of reconciliation

[20] In February, 1950, Adenauer accepted "with pleasure" an invitation from the high commissioners to send consuls to Washington, Paris, and London

[21] For Schuman's statement and a full account of the debate see *News from France*, January 15, 1950, entire issue See also *Current Developments in United States Foreign Policy* (Brookings Institution), December, 1949, pp 24-28

### *BUT WILL GERMANY STAY TRUNCATED?*

In a hall in the Soviet sector of Berlin on October 7, 1949, Wilhelm Pieck, Communist leader, announced "The People's Council has proclaimed itself the People's Chamber of Parliament" An East German state, claiming sovereignty over all Germany, had been established, in answer to the Bonn constitution It was no great surprise, the Kremlin merely wanted to hold off until it could see what the western republic was like Earlier in October Moscow handed identical notes to the United States, British, and French ambassadors which said "Formation of a separate government for the western zones of Germany can only be qualified as the culmination of a policy of splitting Germany in violation of the Potsdam agreement, and the Soviet government considers it necessary to state that a new situation has been created in Germany at the present time"

The Communist-led "People's Council would," said the Kremlin, "be reconstituted as an all-German Parliament" The People's Council is a 400-member executive committee of the 2000-member People's Congress The members of that Congress were appointed by the political parties of the Soviet zone and the "mass organizations"—trade union, youth, and agricultural groups

The new "republic" is about the size of Tennessee, with a population of about 18,000,000 Before the war it manufactured just over one-third of Germany's industrial products, thanks largely to Silesian coal It is more than self-sufficient in food If it could exchange its food surplus for semi-finished materials from the Ruhr and the lower Rhine Valley, the economic equilibrium of Germany would be satisfactory indeed Although the dominant political group is obviously the Communist party, it is called, even in the Soviet sector of Berlin, the Socialist Unity party

Since Moscow has signed a treaty with the new government, she may withdraw her occupation forces, on the theory that Communist control of the area is secure and East Germany will have been firmly fixed in the Soviet orbit That strategic step will immediately be held up before the eyes of the West Germans as one which only friends of Germany would take, the Russians will play for support of the West Germans by saying "You see, we have freed the soil of your fatherland in the east, but you are still held in bondage by the capitalist states" From an overall point of view America's and Britain's interests may best be safeguarded, for the next few years at least, by a West German state which will develop gradually into a buffer zone between east and west (with western Berlin—the Allied sector—providing at the same time a sensitive barometer of Soviet-western relations in Germany) The hope must be that with the gradual democratization of the West Germans and their refugee guests a more satisfactory settlement of the German question will become possible However, not only the Soviet Union

but the western powers view the prospect of a united Germany [22] with serious misgivings The main difficulty, one which will last for a long time, is of course to agree on a form of government acceptable to both Russia and the west But there are others A united Germany including Communist strongholds in the east and anti-Communist groups in the west suggests the danger of civil war This might not be particularly distasteful to the Russians but obviously it would undo all the work that the Allies have accomplished since 1945, and a new Nazi movement would arise To some extent, then, both east and west find themselves in a strangely similar relationship to the Germans Neither can be sure that its ideas will prevail once it withdraws Each is therefore determined to retain its influence over its occupied territory As long as this situation prevails, there can be no possibility of peace with a united Germany

[22] The Bonn government faces the prospect of a disunited Germany even in the west In the 1947 Saar parliamentary elections, forty-eight of the fifty deputies elected were members of parties favoring full economic unity with France They reaffirmed French economic control over the Saar, granted to the French a fifty-year lease on Saar coal mines, and affirmed the territory's political autonomy In March, 1950, Adenauer's government issued a White Book denouncing the Franco-Saar agreements *Deutsche ist die Saar* Germany "insisted" upon a Saar plebiscite to determine whether the Saarlanders want to remain outside of Germany The French government replied that it had no intention of discussing the Saar question with Germany

## Appendix to Part VII

# The Western German Constitution

[On May 8, 1949, the sixty-five delegates to the Parliamentary Council at Bonn adopted the draft of a new western German constitution by a vote of fifty-three to twelve This constitution contains provisions for the eventual inclusion of eastern Germany The three western military governors approved it on May 12 It has been ratified by the state parliaments ]

### Preamble

Conscious of its responsibility before God and mankind, filled with the resolve to preserve its national and political unity and to serve world peace as an equal partner in a united Europe, the German people in the *Laender* (states) of Baden, Bavaria, Bremen, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden, and Wuerttemberg-Hohenzollern has, by virtue of its constituent power, enacted this basic law of the federal republic of Germany to give a new order to political life for a transitional period

It acted also on behalf of those Germans to whom participation was denied

The entire German people is called upon to accomplish, by free self-determination, the unity and freedom of Germany

### I Basic Rights

#### ARTICLE 1

1 The dignity of man shall be inviolable To respect and protect it, shall be the duty of all state authority

2 The German people therefore acknowledges inviolable and inalienable human rights as the basis of every human community, of peace and of justice in the world

3 The following basic rights shall be binding as directly valid law on legislation, administration, and judiciary

#### ARTICLE 2

1 Everyone shall have the right to the free development of his personality, in so far as he does not infringe the rights of others or offend against the constitutional order or the moral code

2 Everyone shall have the right to life and physical inviolability The freedom of the individual shall be inviolable These rights may be interfered with only on the basis of the legal order

ARTICLE 3

1 All men shall be equal before the law

2 Men and women shall have equal rights

3 No one may be prejudiced or privileged because of his sex, descent, race, language, homeland and origin, faith, or his religious and political opinions

ARTICLE 4

1 Freedom of faith and conscience and freedom of religious and ideological *(weltanschauliche)* profession shall be inviolable

2 Undisturbed practice of religion shall be guaranteed

3 No one may be compelled against his conscience to perform war service as a combatant Details shall be regulated by a federal law

ARTICLE 5

1 Everyone shall have the right freely to express and to disseminate his opinion through speech, writing, and illustration and, without hindrance, to instruct himself from generally accessible sources Freedom of the press and freedom of reporting by radio and motion pictures shall be guaranteed There shall be no censorship

2 These rights shall be limited by provisions of general laws, legal regulations for protection of juveniles, and by the right of personal honor

3 Art and science research and teaching shall be free Freedom of teaching shall not absolve from loyalty to the Constitution

ARTICLE 6

1 Marriage and the family shall be under special protection of the state

2 The care and upbringing of children shall be the natural right of parents and the supreme duty is incumbent on them The state shall watch over their activity

3 Children may be separated from the family against the will of those entitled to bring them up only on a legal basis if those so entitled fail to do their duty or, if on other grounds, danger of the children being neglected arises

4 Every mother shall have claim to protection and care of the community

5 Illegitimate children shall, through legislation, be given the same conditions for their physical and spiritual development and their position in society as legitimate children

ARTICLE 7

1 The entire educational system shall be under supervision of the state

2 Those entitled to bring up a child have the right to decide whether it shall receive religious instruction

3 Religious instruction shall form a part of the curriculum in state schools with the exception of nonconfessional schools Religious instruction shall, without prejudice to the state's right of supervision, be given according to principles of religious societies No teacher may be obliged against his will to give religious instruction

4 The right to establish private schools shall be guaranteed Private schools as a substitute for state schools shall require sanction of the state and shall be subject to *Land* legislation Sanction must be given if private schools in their educational aims and facilities as well as in scholarly training of their teaching personnel are not inferior to state schools and if separation of the pupils according to the means of their parents is not encouraged Sanction must be withheld if the economic and legal status of the teaching personnel is not sufficiently assured

5 Private elementary schools shall be permitted only if the educational administration recognizes a specific pedagogic interest, or at the request of those entitled to bring up children, if it is to be established as a school for community confession or ideology or if a state elementary school of this type does not exist in the community

6 Preparatory schools shall remain abolished

ARTICLE 8

All Germans shall have the right without prior notification or permission to assemble peacefully and unarmed for open air meetings This right may be restricted by legislation or on a basis of law

ARTICLE 9

1 All Germans shall have the right to form associations and societies

2 Associations, the objects or activities of which conflict with criminal laws or which are directed against the constitutional order or concept of international understanding, shall be prohibited

3 The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to everyone and all professions Agreements which seek to restrict or hinder this right shall be null and void Measures directed toward this end shall be illegal

ARTICLE 10

Secrecy of mail as well as secrecy of post and telecommunications shall be inviolable Restrictions may be ordered only on the basis of law

ARTICLE 11

1 All Germans shall enjoy freedom of movement throughout federal territory

2 This right may be restricted only by legislation and only for cases in which an adequate basis of existence is absent and as a result a particular

burden would arise for the general public or in which it is necessary for the protection of juveniles against neglect, for combatting danger from epidemics, or to prevent criminal acts

ARTICLE 12

1 All Germans shall be free to choose their occupation, place of work, and place of training Practice of an occupation may be regulated by legislation

2 No one may be compelled to perform a particular kind of work except within the framework of an established general compulsory public service equally applicable to everybody

3 Forced labor shall be admissible only in the event of imprisonment ordered by court

ARTICLE 13

1 A dwelling shall be inviolable

2 Searches may be ordered only by a judge, or in event of imminent danger, by other authorities provided by law, and may be carried out only in the form prescribed therein

3 Interventions and restrictions may otherwise be undertaken only to avert common danger or mortal danger to individuals and on a basis of law, also to prevent imminent danger of epidemics or protecting juveniles from exposed dangers

ARTICLE 14

1 Property and the right of inheritance shall be guaranteed Contents and limitations shall be determined by legislation

2 Property shall involve obligations Its use shall simultaneously serve the general welfare

3 Expropriation shall be admissible only for the well-being of the general public It may be effected only by legislation or on a basis of law which shall regulate the nature and extent of compensation Compensation shall be determined after just consideration of the interests of the general public and participants Regarding the extent of compensation, an appeal may be made to ordinary courts in case of dispute

ARTICLE 15

Land and landed property, natural resources, and means of production may for the purpose of socialization be transferred to public ownership or other forms of publicly controlled economy by law which shall regulate the nature and extent of compensation For compensation, Article 14, Paragraph 3, Sentences 3 and 4 shall apply appropriately

ARTICLE 16

1 No one may be deprived of his German citizenship, loss of citizenship may occur only on the basis of law, and against the will of the person concerned only if the person concerned is not rendered stateless thereby

2 No German may be extradited to a foreign country The politically persecuted shall enjoy the right of asylum

ARTICLE 17

Everyone shall have the right individually or jointly to address written requests or complaints to competent authorities and to popular representative bodies

ARTICLE 18

Whoever abuses freedom of expression of opinion, in particular freedom of the press (Article 5, Paragraph 1), freedom of teaching (Article 5, Paragraph 3), freedom of assembly (Article 8), freedom of association (Article 9), secrecy of mail, post and telecommunications (Article 10), property (Article 14), or the right of asylum (Article 16, Paragraph 2) in order to attack the free democratic basis and order shall forfeit these basic rights Forfeiture and its extent shall be pronounced by a federal constitutional court

ARTICLE 19

1 In so far as according to this basic law a basic right may be restricted by legislation, or on the basis of law, therefore law must apply in general and not soley to an individual case Furthermore, the law must name the basic right, indicating the article

2 In no case may a basic right be affected in basic content

3 Basic rights shall also apply to juridical persons within the country in so far as according to their nature they may be applied to such persons

4 Should any person's right be infringed by public authority, he may appeal to the courts In so far as another authority is not competent, the appeal shall go to ordinary courts

## II The Federation and the Laender

ARTICLE 20

1 The federal republic of Germany is a democratic and social federal state

2 All state authority emanates from the people It shall be exercised by the people in elections and plebiscites and by means of separate legislative, and judicial organs

3 Legislation shall be limited by the Constitution and law

ARTICLE 21

1 Parties shall participate in forming the political will of the people They can be freely formed Their internal organization must conform to democratic principles and, by disclosure of the sources of their funds, be assured against undemocratic influences

2 Parties which, according to their aims and behavior of their members, seek to impair or abolish free and democratic basic order or to jeopardize the existence of the federal republic of Germany shall be unconstitutional A federal constitutional court shall decide on the question of unconstitutionality

3 Details shall be regulated by federal legislation

ARTICLE 22

The federal flag is black, red, and gold

ARTICLE 23

For the time being this basic law shall apply in the territory of the *Laender* Baden, Bavaria, Bremen, Greater Berlin, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Hohenzollern It shall be put into force for other parts of Germany on their accession

ARTICLE 24

1 The federation may by legislation transfer its sovereign powers to international institutions

2 In order to preserve peace the federation may join a system of mutual collective security In so doing it will consent to those limitations of its sovereign powers which will bring about and secure peaceful and lasting order in Europe and among the nations of the world

3 For settlement of international disputes the federation will join the general comprehensive obligatory system of international arbitration

ARTICLE 25

The general rules of international law shall form a part of federal law They shall take precedence over (federal) law and create rights and duties directly for the inhabitants of federal territory

ARTICLE 26

Activities tending to disturb, or undertaken with the intention of disturbing, peaceful relations between nations, and especially preparing for aggressive war shall be unconstitutional They shall be made subject to punishment

ARTICLE 27

All German merchantmen shall form a unified merchant marine

ARTICLE 28

1 Constitutional order in the *Laender* must conform to the principles of a republican, democratic and social state based on the rule of law *(Rechtstaat)* within the meaning of this basic law in the *Laender* [states], *Kreise* [counties], and *Gemeinden* [townships] The people must have a representative as-

sembly resulting from universal, free, equal, and secret elections In the communities, a parish meeting may take the place of an elected body

2 The communities must be guaranteed the right to regulate under their own responsibility all the affairs of the local community in accordance with law The *Gemeindeverbaende* [municipal units] also shall have the right of self-government within the limits of their legal sphere of functions and in accordance with law

3 The federation shall guarantee that the constitutional order of the *Laender* shall correspond to the basic rights and provisions of Paragraphs 1 and 2

ARTICLE 29

1 Federal territory shall be reorganized by federal law with due regard to regional unity, historical and cultural connections, economic expediency, and social structure Reorganization shall create *Laender*, which, by their size and potentiality, are able to fulfill efficiently functions incumbent upon them

2 In areas which in the reorganization of the *Laender* after May 8, 1945, joined another *Land* without plebiscite, a certain change in the decision made concerning this subject may be demanded by popular initiative within one year after coming into force of the basic law Popular initiative shall require the consent of one-tenth of the population qualified to vote in *Landtag* [state assembly] elections Should a popular initiative take place, the federal government must in the draft law regarding reorganization include a provision determining to which land area the concerned shall belong

3 After adoption of the law, in each area which it is intended should join another *Land*, that part of the law which concerns this area must be submitted to referendum If a popular initiative takes place in accordance with Paragraph 2, a referendum must always take place in the area concerned

4 In so far as thereby the law is rejected at least in one area it must be reintroduced in the *Volkstag* [people's assembly] After reenactment it shall require accordingly acceptance by referendum in the entire federal territory.

5 In a referendum the majority of votes cast shall decide

6 The procedure shall be regulated by federal law Reorganization shall be regulated before expiration of three years after promulgation of the basic law, and should it be necessary in consequence of accession of another part of Germany, within two years after such accession

7 Procedure regarding any other change in the existing territory of the *Laender* shall be regulated by federal law which shall require approval of the *Bundesrat* [Federal Council] and a majority of members of the *Bundestag* [Federal Parliament]

ARTICLE 30

The exercise of the powers of state and performance of state functions shall be the concern of the *Laender* in so far as the basic law does not otherwise prescribe or permit

ARTICLE 31

Federal law shall supersede *Land* law

ARTICLE 32

1 Maintenance of relations with foreign states shall be the affair of the federation

2 Before conclusion of a treaty affecting special conditions of a *Land* the *Land* must be consulted sufficiently early

3 In so far as the *Laender* are competent to legislate they may, with approval of the federal government, conclude treaties with foreign states

ARTICLE 33

1 Every German shall have in each *Land* the same civil [*Staatsbuergerliche*] rights and duties

2 Every German shall have access to any public office in accordance with suitability, ability and professional achievements

3 Enjoyment of municipal and national civil [*Buergerliche und Staatsbuergerliche*] rights of access to public offices in public service shall be independent from religious confession No one may be prejudiced on account of his adherence or unadherence to a confession or ideology [*Weltanschauung*]

4 Exercise of state authority [*Hoheitsrechtliche Befugnisse*] shall normally be assigned by permanent functions to members of public service who are in a status of service and loyalty under public law

5 The law regarding public service shall regulate with due regard of established principles concerning the legal status of professional officials [*Berufsbeamten*]

ARTICLE 34

If any person in exercising the duties of public office entrusted to him violates his official obligation toward a third party, liability shall in principle rest with the state or his employing authority In the case of wilful intent or gross negligence the right or recourse shall be reserved In respect to a claim for damages and in respect to the right of recourse an appeal to ordinary courts must not be excluded

ARTICLE 35

All federal and *Laender* authorities shall render each other mutual legal and official assistance

ARTICLE 36

In the highest federal authorities, civil servants [*Beamte*] from all *Laender* shall be employed in equitable ratio Persons employed in other offices shall normally be selected from the *Land* in which they are employed

ARTICLE 37

1 If the *Land* fails to fulfill its obligations to the federation under basic law or any other federal law, the federal government may with approval of the *Bundesrat*, take necessary measure to force the *Land* by way of federal compulsion to fulfill its duties

2 In order to carry out federal compulsion the federal government or its commissioner shall have the right to give orders to all *Laender* and their authorities

ARTICLE 38

1 Deputies of the German *Bundestag* [Parliament] shall be elected by the people in universal equal, direct, and secret elections They shall be representatives of the whole people, not bound to orders and instruction, and subject only to their consciences

2 Any person who has reached the age of 21 shall be eligible to vote and any person who has reached the age of 25 years shall be eligible for election

3 Details shall be determined by federal law

ARTICLE 39

1 The *Bundestag* shall be elected for a term of four years Its electoral period shall end four years after the first assembly or with its dissolution. A new election shall take place in the last three months of the electoral period, in case of dissolution, at the latest after 60 days

2 The *Bundestag* shall meet not later than 30 days after election, but not before the end of the electoral period of the previous *Bundestag*

3 The *Bundestag* shall determine the closure and resumption of its sessions The *Bundestag* president may convene it at an earlier date He shall be obliged to do so if one-third of the members, the federal President, or the federal Chancellor so demand

ARTICLE 40

1 The *Bundestag* shall elect its president, his deputies, and its clerks It shall draw up its standing orders [rules of procedure]

2 The *Bundestag* president shall take charge and exercise police power in the *Bundestag* building No search or seizure may take place without his permission in precincts of the *Bundestag*

ARTICLE 41

1 Review of elections shall be the responsibility of the *Bundestag* It shall decide whether a Deputy has lost his *Bundestag* membership

2 An appeal to the federal constitutional court against a decision of the *Bundestag* shall be admissible

3 Details shall be regulated by law

ARTICLE 42

1 Meetings of the *Bundestag* shall be public Upon a motion of one-tenth of its members or upon a motion of the federal government the public may, by a two-thirds majority, be excluded A decision on the motion will be made in a closed meeting

2 Decisions of the *Bundestag* shall require the majority of votes cast in so far as the basic law does not determine otherwise Standing orders [rules of procedure] may admit exceptions in the case of elections to be held by the *Bundestag*

3 Accurate reports of the public meetings of the *Bundestag* and of its committees shall be privileged

ARTICLE 43

1 The *Bundestag* and its committees may demand the presence of any member of the federal government

2 The members of the *Bundesrat* and of the federal government as well as the persons commissioned by them shall have access to all meetings of the *Bundestag* and its committees They must be heard at any time

ARTICLE 44

1 The *Bundestag* shall have the right and, upon the motion of one-fourth of its members, the obligation to set up an investigating committee, which shall take the necessary evidence in public proceedings The public may be excluded

2 The provisions relating to criminal procedure shall apply appropriately to the investigations The secrecy of the mail, post, and telecommunications shall remain unaffected

3 The courts and administrative authorities shall be obliged to provide legal and official assistance

4 The decisions of the investigating committees shall not be subject to judicial review The courts shall be free to evaluate and judge the facts on which the investigation is based

ARTICLE 45

1 The *Bundestag* shall appoint a standing committee which shall safeguard the rights of the *Bundestag* vis-à-vis the federal government in the interval between two electoral periods The standing committee shall also have the rights of an investigating committee

2 Wider powers, in particular the right to legislate, to elect the federal Chancellor, and to impeach the federal President, shall be within the province of the standing committee

ARTICLE 46

1 A Deputy may at no time be subject to legal or disciplinary action, or otherwise be called to account outside the *Bundestag* because of his vote or any utterance in the *Bundestag* or in one of its committees This shall not apply in the case of defamatory insults

2 A Deputy may be called to account or arrested for a punishable offense only with permission of the *Bundestag*, unless he be apprehended while committing the offense or in the course of the following day

3 Furthermore, the permission of the *Bundestag* shall be required in respect of any other restrictions of the personal freedom of a Deputy, or accordance with Article 18

4 Any criminal proceedings and any proceedings in accordance with Article 18 against a Deputy, any detention, and any other restriction of his personal freedom shall be suspended upon the demand of the *Bundestag*

ARTICLE 47

Deputies shall be entitled to refuse to give evidence concerning persons who have entrusted facts to them in their capacity as Deputies, or to whom they in this capacity have entrusted facts, as well as concerning these facts themselves In so far as this right of refusal to give evidence extends, the seizure of documents shall be inadmissible

ARTICLE 48

1 Any persons seeking election to the *Bundestag* shall have a claim to the leave necessary for his election campaign

2 No one may be prevented from assuming or exercising the office of a Deputy Notice of dismissal or dismissal for this reason shall be inadmissible

3 Deputies shall have a claim to adequate remuneration, which shall ensure their independence They shall have the right to free travel in all publicly owned transport Details shall be regulated by a federal law

ARTICLE 49

Articles 46, 47, and 48, Paragraphs 2 and 3, shall apply to the members of the Presidium and the standing committee, as well as to their chief deputies also, in the interval between two electoral periods

ARTICLE 50

The *Laender* shall participate through the medium of the *Bundesrat* in the legislation and the administration of the federation

ARTICLE 51

1. 1. *Bundesrat* [Federal Council] shall consist of members of the governments of the *Laender* which shall appoint and recall them They may be represented by other members of their government

2 Each *Land* shall have at least three votes, *Laender* with more than 2,000,000 inhabitants shall have four, *Laender* with more than 6,000,000 inhabitants shall have five votes

3 Every *Land* may delegate as many members as it has votes The votes of each *Land* may be given only as a bloc vote and only by members present or their representatives

ARTICLE 52

1 The *Bundesrat* shall elect its president for one year

2 The president shall convene the *Bundesrat* He must convene it if the representatives of at least two *Laender* or the federal government so demand

3 The *Bundesrat* shall take its decision with at least the majority of its votes It shall draw up its standing orders It shall meet in public The public may be excluded

4 Other members or representatives of the governments of the *Laender* may belong to the committees of the *Bundesrat*

ARTICLE 53

The members of the federal government shall have the right, and on demand the obligation, to participate in the debates of the *Bundesrat* and its committees They must be heard at any time The *Bundesrat* must be kept currently informed by the federal government on the conduct of federal affairs

ARTICLE 54

1 The federal President shall be elected without discussion by the federal convention Every German eligible for voting for the *Bundestag* and who has reached the age of 40 shall be eligible for election

2 The term of office of the federal President shall be five years Immediate re-election shall be admissible once only

3 The federal convention shall consist of members of the *Bundestag* and an equal number of members elected by popular representative bodies from the *Laender* according to the principles of proportional representation

4 The federal convention shall meet no later than 30 days before expiration of the term of office of the federal President, in case of premature termination, no later than 30 days after this date It shall be convened by the president of the *Bundestag*

5 After the expiration of the electoral period, the time limit (paragraph 4, sentence one) shall be begun with the first meeting of the *Bundestag*.

6 The person who has received the votes of a majority of the members of the federal convention shall be elected If such majority is not obtained by any candidate in two ballots, the person who receives the most votes in a further ballot shall be elected

7 Details shall be regulated by law

ARTICLE 55

1 The federal President may be a member of neither government nor the legislative body of the federation or a *Land*

2 The federal President may not hold any other salaried office, carry on trade, or practice a profession, or belong to a management or supervisory board or profit-making enterprise

ARTICLE 56

On assuming office the federal President shall take the following oath in the presence of assembled members of the *Bundestag* and *Bundesrat*

"I swear I shall dedicate my strength to the wellbeing of the German people, enhance what is to its advantage, ward off what might harm it, uphold and defend the basic law and laws of the federation, fulfill my duties conscientiously and do justice to every man, so help me God"

The oath also may be taken without religious assertion

ARTICLE 57

In event of the inability of the federal President to perform the duties of this office or in event of premature vacancy in office, the function of the President shall be exercised by the *Bundestag* president.

ARTICLE 58

Orders and instructions of the federal President shall require for their validity the countersignature of the federal Chancellor or competent federal minister This shall not apply to appointment and dismissal of the federal Chancellor, and dissolution of the *Bundestag*, in accordance with Article 69, Paragraph 3

ARTICLE 59

1 The federal President shall represent the federation in matters of international law He shall conclude treaties with foreign states on behalf of the federation He shall accredit and receive envoys

2 Treaties which regulate political relations of the federation or refer to matters of federal legislation shall require in the form of federal law approval or participation from corporations competent at the time for federal legislation For administrative agreements provision concerning federal administration shall apply accordingly

ARTICLE 60

1 The federal President shall appoint and dismiss federal judges and federal officials unless otherwise determined by law

2 He shall exercise the right of pardon on behalf of the federation for individual cases

3 He may delegate these powers to other authorities

4 Article 46, Paragraphs 2 to 4 shall apply appropriately to the federal President

ARTICLE 61

1 The *Bundestag* or *Bundesrat* may impeach the federal President before a federal constitutional court on account of wilful violation of the basic law or any other federal law The motion for impeachment must be brought by at least one-fourth of the members of the *Bundestag* or one-fourth of the votes of the *Bundesrat* The decision to impeach shall require a majority of two-thirds of the members of the *Bundestag* or a two-thirds vote of the *Bundesrat* Prosecution shall be conducted by a person commissioned by the impeaching body

2 If the federal constitutional court finds the federal President guilty of wilful violation of the basic law or any other federal law, it may declare him to have forfeited his office After institution of impeachment proceedings, the federal constitutional court may by interim order determine that the federal President be prevented from performing the duties of his office

## III The Federal Government

ARTICLE 62

The federal government shall consist of the federal Chancellor and the federal ministers

ARTICLE 63

1 The federal Chancellor shall be elected without discussion by the *Bundestag* on proposal of the federal President

2 The person who has received the votes of the majority of the members of the *Bundestag* shall be elected He shall then be appointed by the federal President

3 If the person nominated is not elected, the *Bundestag* may within 14 days after the ballot elect a federal Chancellor by more than one-half its members

4 If the federal Chancellor is not elected within this time limit, a new ballot shall take place immediately in which the person who receives the most votes shall be elected If the person elected receives the votes of the majority of members of the *Bundestag*, the federal President must within seven days after the election appoint him If the person elected does not obtain this majority the federal President must within seven days either appoint him or dissolve the *Bundestag*

ARTICLE 64

1 Federal ministers shall be appointed and dismissed by the federal President upon the proposal of the federal Chancellor

2 The federal Chancellor and federal ministers on assuming office shall take before the *Bundestag* the oath provided in Article 56

ARTICLE 65

The federal Chancellor shall determine and assume responsibility for general policy Within the limits of this general policy each federal minister shall direct his department individually and on his own responsibility The federal government shall decide on differences of opinion between federal ministers The federal Chancellor shall conduct its business in accordance with standing orders (rules of procedure) adopted by the federal government and approved by the federal President

ARTICLE 66

The federal Chancellor and the federal ministers may not hold other salaried office, carry on trade, or practice a profession, or belong to the management or, without *Bundestag* approval, to the supervisory board of a profit-making enterprise

ARTICLE 67

1 The *Bundestag* may express lack of confidence in the federal Chancellor only by electing a successor with a majority of its members and submitting a request to the federal President for dismissal of the Chancellor The federal President must comply with the request and appoint the person elected

2 There must be an interval of 48 hours between the motion and the election

ARTICLE 68

1 If a motion of the federal Chancellor to receive a vote of confidence does not obtain the support of the majority of the members of the *Bundestag*, the federal President may, upon the proposal of the federal Chancellor, dissolve the *Bundestag* within 21 days The right of dissolution shall lapse as soon as the *Bundestag* with the majority of its members elects another federal Chancellor

2 There must be an interval of 48 hours between the introduction of, and the vote on, the motion

ARTICLE 69

1 The federal Chancellor shall appoint a federal minister as deputy

2 The office of the federal Chancellor or federal minister shall end in any case with the assembly of a new *Bundestag*, the office of the federal minister also with any other termination of the office of the federal Chancellor

3 At the request of the federal President or federal Chancellor a federal minister shall be obliged to carry out the duties of office until appointment of a successor

## IV The Legislation of the Federation

ARTICLE 70

1 *Laender* shall have the right of legislation in so far as this basic law does not accord legislative powers to the federation

2 Division of competence between federation and *Laender* shall be determined in accordance with provisions of this basic law concerning exclusive and concurrent legislation

ARTICLE 71

In the field of exclusive legislation of the federation, *Laender* shall have powers of legislation only if and so far as they are expressly so empowered in federal law

ARTICLE 72

1 In the field of concurrent legislation *Laender* shall have powers of legislation so long and so far as the federation does not make use of its legislative right

2 The federation shall have legislative right in this field in so far as necessary for regulation by federal law exists because

(a) A matter cannot be effectively regulated by legislation of an individual *Land* or,

(b) Regulation of matter by a *Land* law could prejudice interests of other *Laender* or of *Laender* as a whole or,

(c) Preservation of legal or economic unity demands it, in particular preservation of uniformity of living conditions extending beyond the territory of an individual *Land*

ARTICLE 73

The federation shall have exclusive legislation on

1 Foreign affairs
2 Citizenship
3 Freedom of movement, passports, immigration, emigration, and extradition
4 Currency, money and coinage, weights and measures, and regulation of time and the calendar
5 Unity of customs and commercial territory, commercial and navigation agreements, the freedom of traffic in goods, and the traffic in goods and payments with foreign countries including customs and frontier protection
6 Federal railways and traffic
7 Post and telecommunications
8 Legal status of persons in employment of the federation and public law corporations under direct supervision of the federal government
9 Trademarks, copyright, and publishing rights
10 Cooperation of the federation and the *Laender* in the criminal police and in matters concerning protection of the Constitution, and establishment of a federal office of criminal police as well as combating international crime
11 Statistics for federal purposes

ARTICLE 74

Concurrent legislation shall extend to the following field

1 Civil law, criminal law and execution of sentences, constitution of the courts, court procedure, the bar, notaries, and legal advice
2 Census and registry matters
3 Associations and assemblies
4 The right of sojourn and settlement of aliens
5 Protection of German works of art against removal abroad
6 Matters relating to refugees and expellees
7 Public welfare
8 Citizenship of *Laender*
9 War damages and compensation [*Wiedergutmachung*]
10 Provisions for war disabled persons and surviving dependents, welfare of former prisoners of war, and the care of war graves
11 Law relating to economy (mining industry, power supply, crafts, trades, commerce, banking and stock exchanges, private insurances, and labor law)
12 Including the legal organization of enterprises for protection of workers and provisions for employment as well as social insurance, including unemployment insurance
13 Furtherance of scientific research
14 Law regarding expropriation in so far as it is concerned with matters enumerated in Articles 73 and 74
15 Transfer of land and landed property, natural resources, and means of production to public ownership or to other forms of publicly controlled economy
16 Prevention of abuse of economic powers
17 Promotion of agricultural and forestry production, safeguarding the food supply, import and export of agricultural and forestry products, deep sea and coastal fisheries, and coastal preservation
18 Transactions in landed property, law concerning land and agricultural lease, housing, settlements, and homestead
19 Measures against epidemic and infectious diseases affecting humans and animals, licensing for medical and other healing professions and healing trade, and traffic in drugs, medicines, narcotics, and poisons
20 Protection relating to traffic in food and stimulants as well as the necessities of life, in fodder, in agricultural and forestry seeds and seedlings, and protection of trees and plants against diseases and pests
21 Ocean and coastal shipping and aids to navigation, inland shipping, meteorological service, ocean channels, and inland waterways used for general traffic

22 Road traffic, motor transport and construction, and maintenance of highways used for long distance transport
23 Railways other than federal railways, except mountain railways

ARTICLE 75

The federation shall have the right on the basis of Article 72 to issue general provisions concerning
1 Legal status of persons and other public law corporations
2 General legal status of the press and motion pictures
3 Hunting, fishing, protection of nature, and care of the countryside
4 Land distribution, regional planning, and water conservation
5 Matters relating to registration and identity cards

ARTICLE 76

1 Bills shall be introduced in the *Bundestag* by the federal government, by members of the *Bundestag*, or by the *Bundesrat*
2 Federal government bills shall be submitted to the *Bundesrat* The *Bundesrat* shall have the right to give opinion on these bills within three weeks
3 The *Bundesrat* bills shall be submitted to the *Bundestag* by the federal government, which must add a statement of its own views

ARTICLE 77

1 Federal laws shall be passed by the *Bundestag* After adoption they shall without delay be submitted to the *Bundesrat* by the president of the *Bundestag*
2 The *Bundesrat* may within two weeks from the receipt of an adopted bill demand that a committee composed of members of the *Bundestag* and the *Bundesrat* be convened to consider the bill jointly It shall be regulated by the standing orders [rules of procedure] which shall be agreed by the *Bundestag* and shall require approval of the *Bundesrat* Members of the *Bundesrat* deputed to this committee shall not be bound by instructions If approval of the *Bundesrat* is required for a law, both the *Bundestag* and the federal government may demand it be convened Should the committee propose alteration of the adopted bill, the *Bundestag* must take a new decision
3 In so far as approval of the *Bundesrat* is not required for a law, the *Bundesrat* may, if the procedure in accordance with Paragraph 2 is completed within one week, veto a law passed by the *Bundestag* Time limit for a veto shall begin in the case of Paragraph 2, last sentence, with receipt of the bill as readopted by the procedure preceding the committee provided for in Paragraph 2
4 Should the veto be adopted by a majority of votes of the *Bundesrat*, it may be rejected by decision of a majority of members of the *Bundestag*

Should the *Bundesrat* have adopted a veto by a majority of at least two-thirds of its votes, rejection by the *Bundestag* shall require a majority of two-thirds at least, of a majority of members of the *Bundestag*

ARTICLE 78

A law passed by the *Bundestag* shall be enacted if the *Bundesrat* approves, does not bring in a motion in accordance with Article 77, Paragraph 2, does not impose a veto within the time limit of Article 77, Paragraph 3, withdraws its veto, or if the veto is overridden by the *Bundestag*

ARTICLE 79

1 Basic law may be amended only by a law which expressly alters or adds to the text of basic law

2 Such law shall require approval of two-thirds of the members of the *Bundestag* and two-thirds of the votes of the *Bundesrat*

3 An amendment to this basic law by which the organization of the federation into the *Laender*, the basic cooperation of the *Laender* in legislation or the basic principles laid down in Articles 1 and 20 are affected, shall be inadmissible

ARTICLE 80

1 By means of law the federal government and the federal minister of *Land* governments may authorize the issuance of orders [*Rechtsverordnungen*] Contents, purpose, and scope of such authorization shall be determined in law A legal basis must be cited in the order If the law provides that authorization may be further transferred, then transfer of authorization shall require an order [*Rechtsverordnung*]

2 Approval of the *Bundesrat* shall be required unless otherwise regulated by federal legislation, before it is legal to issue orders of the federal government or federal minister concerning principles and fees for use of facilities of federal railways and post and telecommunications, concerning the construction and operation of railways as well as those issued on the basis of federal laws which require approval of the *Bundesrat* or which are executed by the *Laender* on behalf of the federation or as their own concern

ARTICLE 81

1 Should, in the case of Article 68, the *Bundestag* not be dissolved, the federal President may, on the request of the federal government with the approval of the *Bundesrat*, declare a state of legislative emergency for a bill, if the *Bundestag* rejects it despite the fact that the federal government has declared it to be urgent The same shall apply if a bill has been rejected despite the fact that the federal Chancellor had combined with it the motion described in Article 68

2 If the *Bundestag*, after the state of legislative emergency has been declared, again rejects the bill or passes it in a version stated by the federal

government to be unacceptable, the bill shall be deemed adopted in so far as the *Bundesrat* approved it The same shall apply if the bill has not been passed by the *Bundestag* within four weeks after its resubmission

3 During the term of office of a federal Chancellor, any other bill rejected by the *Bundestag* may be passed within a period of six months after the initial declaration of a state of legislative emergency in accordance with Paragraphs 1 and 2, after expiration of the period, a further declaration of a state of legislative emergency shall be inadmissible during the term of office of the same federal Chancellor

4 The basic law may neither be amended nor wholly or partially repealed or suspended by a law enacted in accordance with Paragraph 2

ARTICLE 82

1 Laws enacted according to the provisions of this basic law shall be engrossed by the federal President with countersignature and published in the federal legal gazette Orders [*Rechtsverordnungen*] shall be signed by the issuing authority and, unless otherwise regulated by law, published in the federal legal gazette

2 Each law and each order shall specify the date of its coming into force In the absence of such a provision, they shall come into force on the fourteenth day after the end of the day on which the federal legal gazette has been issued

## V The Execution of Federal Laws and Federal Administration

ARTICLE 83

The *Laender* shall execute the federal laws as their own concern in so far as this basic law does not otherwise determine or permit

ARTICLE 84

1 If the *Laender* execute the federal laws as their own concern, they shall regulate the establishment of the authorities and the administrative procedure in so far as federal laws approved by the *Bundesrat* do not otherwise determine

2 The federal government may, with the approval of the *Bundesrat*, issue general administrative provisions

3 The federal government shall exercise supervision to insure that the *Laender* execute the federal laws in accordance with valid law For this purpose the federal government may send commissioners to the highest *Land* authorities and, with their approval and, in the case of this approval being refused, with the approval of the *Bundesrat*, also to the subordinate authorities

4 Should deficiencies established by the federal government in the execution of federal laws in the *Laender* not be overcome, then on application by the federal government or the *Land* concerned, the *Bundesrat* shall decide

whether the *Land* has infringed law Against the decision of the *Bundesrat*, appeal may be made to the federal constitutional court

5 For the execution of federal laws, the federal government may, by federal legislation which shall require the approval of the *Bundesrat*, be granted in special cases the power to give individual instructions They shall, except where the federal government considers the case urgent, be directed to the highest *Land* authorities

ARTICLE 85

1 Where the execution of federal laws is delegated to the *Laender* by the federation, the establishment of the authorities shall remain a concern of the *Laender* in so far as federal legislation approved by the *Bundesrat* does not determine otherwise

2 The federal government may issue with the approval of the *Bundesrat*, general administrative provisions It may regulate the uniform training of officials and employees The heads of the authorities at middle level shall be appointed with its agreement

3 The *Land* authorities shall be subject to the instructions of the highest competent federal authorities Except where the federal government considers it urgent, the instructions shall be directed to the highest *Land* authorities Execution of the instructions shall be insured by the highest *Land* authority

4 Federal supervision shall extend to the legality and suitability of the manner of execution

5 The federal government may for this purpose demand submission of reports and documents and send commissioners to all authorities

ARTICLE 86

If the federation executes the laws by direct federal administration or by public law, corporations, or institutions directly supervised by the federation, the federal government shall, in so far as the law does not prescribe details, issue general administrative provisions It shall regulate, in so far as it is not otherwise determined by the law, the establishment of the authorities

ARTICLE 87

1 The foreign service, the federal finance administration, the federal railways, the federal postal services and, in accordance with the provisions of Article 89, the administration of the federal waterways and shipping, shall be conducted by a direct federal administration with its own lower level administrative offices Federal frontier protection authorities and central offices for police information and communications, for the protection of the Constitution, and for the criminal police may be established by federal legislation

2 Public law corporations directly supervised by the federation shall be

those carriers of social insurance whose sphere of competence extends beyond the territory of a *Land*

3 In addition, independent federal authorities and new public law corporations and institutions directly supervised by the federation may be established by federal legislation for matters on which the federation has the power to legislate Should the federation acquire new functions in matters for which it has legislative competence, federal authorities at middle and lower levels may in case of urgent need be established with the approval of the *Bundesrat* and of the majority of the members of the *Bundestag*

ARTICLE 88

The federation shall establish a bank of currency and issue as the federal bank

ARTICLE 89

1 The federation shall be the owner of the former Reich waterways

2 The federation shall administer the federal waterways through its own authorities It shall exercise those state functions relating to inland shipping extending beyond the territory of a *Land* and the functions of ocean-going shipping which are conferred on it by law The federation may delegate the administration of federal waterways in so far as they lie within the territory of a *Land* to this *Land* upon request, to act on its behalf [*Auftragsverwaltung*] Should a waterway touch the territories of several *Laender*, the federation may delegate administration to the *Land* agreed upon by the *Laender* concerned

3 In the administration, development, and new construction of waterways, the requirements of soil and water conservation shall be observed in agreement with the *Laender*

ARTICLE 90

1 The federation shall be the owner of the former Reich *Autobahnen* [super highways] and Reich highways

2 The *Laender* or such self-governing corporations under public law as are competent in accordance with *Land* law, shall administer the federal *Autobahnen* and other federal highways used for long-distance traffic on behalf of the federation

3 At the request of a *Land*, the federation may take over into direct federal administration federal *Autobahnen* and other federal highways used for long-distance traffic, in so far as they lie within the territory of this *Land*

ARTICLE 91

1 In order to avert an imminent danger to the existence or the free democratic basic order of the federation or a *Land*, a *Land* may call in the police forces of other *Laender*

2 If the *Land* in which the danger is imminent is not itself prepared or in a

position to combat the danger, the federal government may place the police in the *Land* or the police forces of other *Laender* under its instructions The order [*Anordung*] shall be rescinded after the danger has been overcome, otherwise at any time on demand from the *Bundesrat*

## VI The Administration of Justice

### ARTICLE 92

Judicial authority shall be invested in the judges It shall be exercised by the federal constitutional court, by the supreme federal court, by the federal courts of the *Laender*

### ARTICLE 93

1 The federal constitutional court shall decide

(a) On the interpretation of this basic law in the event of disputes concerning the extent of the rights and duties of the highest federal organ or of other participants accorded independent rights by this basic law or in the standing orders [rules of procedure] of the highest federal organ

(b) In cases of differences of opinion or doubts on the formal and material compatibility of federal law or *Land* law with this basic law, on the compatibility of *Land* law with some other federal law, on the application of the federal government, of a *Land* government, or of one-third of the members of the *Bundestag*

(c) In cases of difference of opinion on the rights and duties of the federation and the *Laender*, particularly in the execution of the federal law by the *Laender*, and in the exercise of federal supervision

(d) On other public law disputes between the federation and the *Laender*, between different *Laender*, or within a *Land*, in so far as appeal to another court is not provided for

(e) In all other cases provided for in this basic law

2 Furthermore the federal constitutional court shall act in cases otherwise assigned to it by federal legislation

### ARTICLE 94

1 The federal constitutional court shall consist of federal judges and other members The members of the federal constitutional court shall be elected half by the *Bundestag* and half by the *Bundesrat* They may not belong to the *Bundestag*, the *Bundesrat*, the federal government, or corresponding bodies of a *Land*.

2 A federal law shall regulate its legal constitution and procedure and determine in which cases its decisions shall have the force of law

### ARTICLE 95

1 To preserve the unity of federal law, a supreme federal court shall be established

2 The supreme federal court shall decide, in cases where the decision is of fundamental importance, on the uniformity of the administration of justice of the higher federal courts

3 The appointment of the judges of the supreme federal court shall be decided jointly by the federal ministers of justice and a committee for the election of judges consisting of *Land* ministers of justice and an equal number of members elected by the *Bundestag*

4 Otherwise the constitution of the supreme federal court and its procedure shall be regulated by federal legislation

ARTICLE 96

1 Higher federal courts will be established for the spheres of ordinary administrative, finance, labor, and social jurisdiction

2 Article 95, Paragraph 3, shall apply to the judges of the higher federal courts with the proviso that the place of the federal minister of justice and the *Land* ministers of justice be taken by the ministers of competency for the particular matter Their conditions of service must be regulated by a special federal law

3 The federation may establish federal disciplinary courts for disciplinary proceedings against federal officials and federal judges

ARTICLE 97

1 Judges shall be independent and subject only to the law

2 Judges who are principally, regularly, and definitely employed as such may, against their will, be dismissed before the expiration of their term of office, or permanently or temporarily suspended from office, or transferred to another office, or be placed on the retired list only through the decision of a court and only on the grounds and in the forms prescribed by legislation Legislation may set an age limit at which judges who have been appointed for life shall retire In the cases of alterations in the structure of courts or their districts, judges may be transferred to another court or suspended from office They must, however, retain their full salary

ARTICLE 98

1 The legal position of the federal judges must be regulated by a special federal law

2 If a federal judge, in his official or unofficial capacity, infringes the principles of the basic law or the constitutional order of a *Land*, the federal constitutional court may, on the application of the *Bundestag* and with a two-thirds majority, order that the judge be transferred to another office or placed on the retired list In the case of wilful infringement, dismissal may also be decided upon

3 The legal position of the judges in the *Laender* must be regulated by special *Land* legislation The federation may issue general provisions

4 The *Laender* may determine that the *Land* Minister of Justice shall, together with a committee for the election of judges, decide on the appointment of judges in the *Laender*

5 The *Laender* may make an appropriate regulation for *Land* judges in accordance with Paragraph 2 Valid *Land* constitutional law shall remain unaffected The federal constitutional court shall decide in the case of impeachment of a judge

ARTICLE 99

By *Land* legislation, the decision on constitutional disputes within a *Land* may be assigned to the federal constitutional court, and the decision of final instance on matters involving the application of *Land* law to the higher federal courts

ARTICLE 100

1 If a court considers unconstitutional a law, the validity of which is pertinent to its decision, proceedings must be stayed and, if a violation of a *Land* constitution is involved, the decision of the *Land* court competent for constitutional disputes shall be obtained, and if a violation of this basic law is involved, the decision of the federal constitutional court shall be obtained This shall also apply if the violation of this basic law by *Land* law or the compatibility of a *Land* law within a federal law are involved

2 If in litigation it is doubtful whether a rule of international law forms part of federal constitutional law and whether it creates direct rights and duties for the individual (Article 25), the court shall obtain the decision of the federal constitutional court

3 If the court of a *Land* in interpreting the basic law, intends to deviate from a decision of the federal constitutional court or the constitutional court of another *Land*, the said constitutional court must obtain the decision of the federal constitutional court If in interpreting other federal law, it intends to deviate from the decision of the supreme federal court or a higher federal court, it must obtain the decision of the supreme federal court

ARTICLE 101

1 Extraordinary courts shall be inadmissible No one may be prevented from appearing before his lawful judge

2 Courts for special matters may be established only by law

ARTICLE 102

The death sentence shall be abolished

ARTICLE 103

1 Everyone brought before a court shall have a claim to proper legal hearing

2 An act may be punished only if it has been punishable in law before the act was committed

3 No one may be punished more than once on account of the same act in pursuance of the general criminal laws

ARTICLE 104

1 The freedom of the individual may be restricted only on the basis of a formal law and only with due regard to the forms prescribed therein Detained persons may be subjected neither to physical nor mental ill-treatment

2 Only the judge shall decide on the admissibility and continued duration of a deprivation of liberty If such deprivation is not based on the order of a judge, a court decision must be obtained without delay The police may, on its own authority, hold no one in custody beyond the end of the day following the arrest Details shall be regulated by legislation

3 Any person temporarily detained on suspicion of having committed a punishable act must, at the latest on the day following the arrest, be brought before a judge who shall inform him of the reasons for the arrest, interrogate him, and give him an opportunity to raise objections Without delay, the judge must either issue a warrant of arrest setting out the reasons thereof, or order his release

4 A relative of the person detained or a person enjoying his confidence must be notified forthwith of any judicial decision in respect of the ordering or the continued duration of a deprivation of liberty

## VII Finance

ARTICLE 105

1 The federation shall have exclusive legislation on customs and financial monopolies

2 The federation shall have concurrent legislation on

(a) Excise taxes and taxes on transactions, with the exception of taxes with localized application, in particular the taxes on real estate acquisition, incremental value, and on fire protection

(b) The taxes on income property, inheritance, and donations

(c) Taxes on real estate and on business [*Realsteuern*] with the exception of the fixing of tax rates, if it makes a claim on the taxes in their entirety or in part to cover federal expenditures, or if the conditions of Article 72, Paragraph 2, apply

3 Federal legislation on taxes, the yield of which accrues in entirety or in part to the *Laender* or the *Gemeinden* [*Gemeindeverbaende*] shall require the approval of the *Bundesrat*

ARTICLE 106

1 Customs, the yield of monopolies, the excise taxes with the exception of the beer tax, the transportation tax, the turnover tax, and property dues serving no recurrent purposes shall accrue to the federation

2 The beer tax, the taxes on transactions with the exception of the transportation tax and turnover tax, the income and corporation taxes, the property tax, inheritance tax, the *Realsteuern* and the taxes with localized application shall accrue to the *Laender* and, in accordance with *Land* legislation, to the *Gemeinden*

3 The federation may, by means of a federal law which shall require the approval of the *Bundesrat*, make a claim to a part of the income and corporation taxes to cover its expenditures not covered by other revenues, in particular to cover grants which are to be made to *Laender* to meet expenditures in the fields of education, public health, and welfare

4 In order to ensure the working efficiency also of the *Laender* with low revenues and to equalize the differing burden of expenditure of the *Laender*, the federation may make grants and take the funds necessary for its purpose from specific taxes of those accruing to the *Laender* A federal law, which shall require the approval of the *Bundesrat*, shall be utilized for this purpose and in what amounts and on what basis the grants shall be distributed among the *Laender* entitled to equalization The grants must be handed directly to the *Laender*

ARTICLE 107

The final distribution of the taxes subject to concurrent legislation between the federation and the *Laender*, shall be effected not later than December 31, 1952, and by means of a federal law which shall require the approval of the *Bundesrat* This shall not apply to the *Realsteuern* and the taxes with localized applications In doing so, both federation and *Laender* shall be given a legal claim to certain taxes or shares in taxes corresponding to their expenditures

ARTICLE 108

1 Customs, financial monopolies, the excise taxes subject to concurrent legislation, the transportation tax, the turnover tax, and the non-recurrent property dues shall be administered by federal finance authorities The structure of these authorities and the procedure to be applied by them shall be regulated by federal legislation The heads of the authorities at middle level shall be appointed by agreement with the *Laender* governments The federation may delegate the administration of the non-recurrent property dues to the land finance authorities to act on behalf of the federation [*Auftragsverwaltung*]

2 In so far as the federation makes a claim to a part of the income and corporation taxes, it will have the right to administer them It may, however, delegate the administration to the *Land* finance authorities to act on behalf of the federation

3 The remaining taxes shall be administered by *Land* finance authorities The federation may by means of federal legislation which shall require the approval of the *Bundesrat*, regulate the structure of these authorities, the

procedure to be applied by them, and the authorities at middle level must be appointed by agreement with the federal government The administration of the taxes accruing to the *Gemeinden* [*Gemeindeverbaende*] may be transferred by the *Laender* in entirety or in part to the *Gemeinden*

4 In so far as the taxes accrue to the federation, the *Land* finance authorities shall act on behalf of the federation The *Laender* shall be liable with their revenues for a regular administration of these taxes, the federal minister of finance may supervise the regular administration through federal plenipotentiaries who shall have the right to give instructions to the authorities at middle and lower level

5 Finance jurisdiction shall be uniformly regulated by federal legislation

6 The general administrative provisions shall be issued by the federal government and, in so far as the administration is incumbent upon the *Land* finance authorities, with the approval of the *Bundesrat*

ARTICLE 109

The federation and the *Laender* shall be self-supporting and independent of each other in their budget economy

ARTICLE 110

1 All revenues and expenditures of the federation must be estimated for each fiscal year and included in the budget

2 The budget shall be established by law before the commencement of the fiscal year Revenue and expenditure must be balanced, expenditures shall as a rule be approved for one year, they may in special cases be approved for a longer period Otherwise the federal budget law may contain no provisions which extend beyond the fiscal year or which do not concern the revenues and expenditures of the federation or its administration

3 The assets and liabilities shall be indicated in an appendix to the budget

4 In the case of federal commercial enterprises, only the final result and not the detailed revenues and expenditures, need be included in the budget

ARTICLE 111

1 If by the end of a fiscal year the budget for the following year has not been established by law, the federal government shall, until such a law comes into force, be empowered to effect such payments, as are necessary

(a) To maintain legally established institutions and to carry out legally determined measures
(b) To meet legally established obligations of the federations
(c) To continue building projects, procurements, and other services or to grant further subsidies for these purposes in so far as funds have already been approved by the budget of a previous year

2 In so far as revenues from taxes, imports, and other sources based on special legislation, or working capital reserves, do not cover the expenditures

under Paragraph 1, the federal government may realize by way of credits the funds necessary to conduct current operations up to one-fourth of the final sum contained in the previous budget

ARTICLE 112

Expenditure exceeding the budget and any extraordinary expenditures shall require the approval of the federal minister of finance They may only be given in case of an unforeseen and irrefutable necessity

ARTICLE 113

Decisions of the *Bundestag* and *Bundesrat*, which increase the budget expenditure proposed by the federal government or include, or imply for the future, new expenditure, shall require the approval of the federal government

ARTICLE 114

The federal minister of finance must present to the *Bundestag* and the *Bundesrat* an annual statement of all revenues and expenditures as well as of assets and liabilities The audit thereof shall be carried out by an audit office [*Rechnungshof*], the members of which shall possess judicial independence In order to secure a discharge for the federal government, the general statement of accounts and a survey of the assets and liabilities shall be submitted to the *Bundestag* and the *Bundesrat* in the course of the next fiscal year, together with the observations of the audit office The auditing of accounts shall be regulated by a federal law

ARTICLE 115

By way of credits, funds may be obtained only in the case of extraordinary need and as a rule only on the basis of a federal law The granting of credits and provisions of securities as a charge on the federation, the effect of which extends beyond the fiscal year, may be undertaken only on the basis of a federal law The amount of the credits or the extent of the obligation for which the federation assumes liability must be determined by the law

## VIII Transitional and Concluding Provisions

ARTICLE 116

1 Unless otherwise regulated by law, a German within the meaning of this basic law is a person who possesses German nationality or who has been accepted in the territory of the German Reich as of December 31, 1937, as a refugee or exile of German stock or as the spouse or descendant of such person

2 Former German nationals who between January 30, 1933, and May 8, 1945, were deprived of their nationality for political, racial, or religious reasons, and their descendants, shall be regranted citizenship on application.

They shall not be considered to have lost citizenship in so far as they took up residence in Germany after May 8, 1945, and have not expressed a wish to the contrary

ARTICLE 117

1 Law which conflicts with Article 3, Paragraph 2 shall remain in force until it is adjusted to this provision of the basic law, but not beyond March 31, 1953

2 Laws which restrict the right of freedom of movement in consideration of the present housing shortage shall remain in force until repealed by federal legislation

ARTICLE 118

The reorganization of the territory comprising the *Laender* Baden, Wuerttemberg-Baden, and Wuerttemberg-Hohenzollern may be accomplished by agreement between the *Laender* concerned, in a manner deviating from the provisions of Article 29 Should an agreement not be reached, the reorganization shall be regulated by federal legislation which must provide for a referendum

ARTICLE 119

In matters relating to refugees and expellees, in particular their distribution to the *Laender*, the federal government may, with the approval of the *Bundesrat*, issue orders [*Verordnungen*] having the force of law pending a regulation by federal legislation In special cases the federal government may be empowered to issue individual instructions The instructions shall, except in case of imminent danger, be directed to the highest *Land* authorities

ARTICLE 120

1 The federation shall bear the expenses for occupation costs and in accordance with more detailed provisions by a federal law, the other internal and external war-induced burdens, and the grants toward the burdens of social insurance, including unemployment insurance and public assistance for the unemployed

2 The revenues shall pass to the federation at the same time at which the federation assumes the expenditure

ARTICLE 121

The majority of the members of the *Bundestag* and of the federal convention within the meaning of this basic law shall be the majority of their statutory number of members

ARTICLE 122

1 As from the assembly of the *Bundestag*, laws shall be passed exclusively by the legislative authorities recognized in this basic law

2 With effect from this date, legislative bodies and bodies acting in an

advisory capacity in respect of legislation, the competence of which ends in accordance with Paragraph 1, shall be dissolved

ARTICLE 123

1 Law existing before the assembly of the *Bundestag* shall remain in force, in so far as it does not conflict with the basic law

2 The state treaties concluded by the German Reich concerning matters for which, according to this basic law, *Land* legislation is competent, shall remain in force if they are valid and continue to be valid according to general basic principles of law, while reserving all the rights and objections of those concerned, until new state treaties shall have been concluded by the authorities competent to do so by the basic law or until they are otherwise terminated on the grounds of the provisions they contain

ARTICLE 124

Law concerning matters within the exclusive legislative competence of the federation shall become federal law within the area of its application

ARTICLE 125

Law concerning matters of concurrent federal legislation shall become federal law within the area of its application

1 In so far as it is uniformly valid within one or more zones of occupation

2 In so far as it concerns law by which former Reich law has been amended since May 8, 1945

ARTICLE 126

Divergencies of opinion on the continued validity of law as federal law shall be decided by the federal constitutional court

ARTICLE 127

Within one year after promulgation of this basic law, the federal government may, with the approval of the governments of the *Laender* concerned, extend law of the Bizonal Economic Administration, in so far as it continues in force as federal law according to Articles 125 or 126 to the *Laender* Baden, Greater Berlin, Rhineland-Palatinate, and Wuerttemberg-Hohenzollern

ARTICLE 128

In so far as in accordance with still valid law, powers to give instruction within the meaning of Article 84, Paragraph 5 still exist, these shall remain in force pending some other legislative regulation

ARTICLE 129

1 In so far as legal provisions which continue in force as federal law contain an authorization to issue orders [*Rechtsverordnungen*] or general administrative provisions and to perform administrative provisions and to

perform administrative acts, this authorization shall pass to the authorities now competent for the subject matter In doubtful cases the federal government shall decide by agreement with the *Bundesrat* The decision must be published

2 In so far as legal provisions which continue in force as *Land* law, contain such an authorization, it shall be exercised by the authorities competent according to *Land* law

3 In so far as legal provisions within the meaning of Paragraphs 1 and 2 authorize the alteration or amplification or the issue of legal provisions instead of laws, these authorizations shall lapse

4 The provisions of Paragraphs 1 and 2 shall apply appropriately in so far as legal provisions refer to regulations no longer valid or to institutions no longer in existence

ARTICLE 130

1 Administrative organs and other institutions serving the public administration or administration of justice, which are not based on *Land* law or treaties between *Laender*, as well as the amalgamated management of the southwest German railways and the administrative council for the post and telecommunications service of the French zone of occupation shall be under the federal government The latter shall, with the approval of the *Bundesrat*, regulate the transfer, dissolution, or liquidation [of such bodies]

2 The highest disciplinary authority for the personnel of these administrations and establishments shall be the competent federal ministers

3 Public law corporations and institutions not directly supervised by a *Land* and not based on treaties between *Laender*, shall be under the supervision of the competent highest federal authority

ARTICLE 131

The legal status of persons including the refugees and the expellees, who were employed in the public service as of May 8, 1945, and who have left the service for reasons other than those based on civil service or tariff regulations, and who hitherto have not been employed or not in a position corresponding to their former one, shall be regulated by federal legislation The same shall apply to persons, including the refugees and expellees who were entitled to a pension or other assistance on May 8, 1945, and who no longer receive such or something equivalent for reasons other than those based on civil service or tariff regulations Without prejudice to other regulations by *Land* law, legal claims may not be raised until the federal law comes into force

ARTICLE 132

1. Officials [*Beamte*] and judges who, at the time this basic law comes into force, have been appointed for life may, within six months after the first meeting of the *Bundestag* [Parliament], be placed on the retired list or waiting

list or be transferred to another office with less remuneration, if they are personally or professionally unsuitable for their office This provision shall apply appropriately also to employees [*Angestellte*] not subject to notice of dismissal In the case of employees [*Angestellte*] whose conditions or service require notice of dismissal, a period of notice exceeding that required by tariff regulations may be cancelled within the same period

2 The provisions shall not apply to members of the public service unaffected by the denazification and demilitarization laws or who are recognized victims of National Socialism in so far as there are no important objections against such persons

3 Those affected by the above shall have recourse to the court in accordance with Article 19, Paragraph 4

4 Details shall be determined by an order [*Verordnung*] of the federal government, which shall require the approval of the *Bundesrat* [Federal Council]

ARTICLE 133

The federation shall succeed to the rights and obligations of the Bizonal Economic Administration

ARTICLE 134

1 Reich property shall in principle become federal property.

2 It shall, without compensation, be transferred to the authorities now competent to carry out the functions in so far as it was originally destined mainly for administrative functions which according to this basic law are not administrative functions of the federation, and to the *Laender* in so far as, according to its present, not solely temporary use, it serves for administrative functions which according to this basic law are now to be fulfilled by the *Laender* The federation may also transfer other property to the *Laender*

3 Property which was placed at the disposal of the Reich by the *Laender* and *Gemeinden* shall, without compensation, become once more the property of the *Laender* and *Gemeinden*, in so far as the federation does not require it for its own administrative functions

4 Details shall be regulated by a federal law, which shall require the approval of the *Bundesrat*

ARTICLE 135

1 If between May 8, 1945, and the coming into force of this basic law, a territory has changed from one *Land* to another, in this territory the property of the *Land* to which the territory belonged shall be transferred to the *Land* to which the territory now belongs

2 In so far as it was originally destined mainly for administrative functions, or is at present, and not solely temporarily mainly used for administrative functions, the property of *Laender* and other public law corporations and

institutions no longer existing shall be transferred to the *Land* or public law corporation or institution now performing these functions

3 Real estate of *Laender* no longer existing including appurtenances, shall in so far as it does not already belong to the property within the meaning of Paragraph 1 be transferred to the *Land* in the territory of which it is situated

4 In so far as an overriding interest of the federation or the particular interests of a territory require it, a regulation deviating from Paragraphs 1 and 3 may be adopted by federal legislation

5 Otherwise the legal succession and the settlement [of property] in so far as it has not been effected by January 1, 1952, by agreement between the *Laender* or public law corporations or institutions concerned, shall be regulated by federal legislation which shall require the approval of the *Bundesrat*

6 Participations of the former *Land* Prussia in civil law enterprises shall pass to the federation Details shall be regulated by a federal law which may make provisions deviating from this

7 In so far as property which, according to Paragraphs 1 to 3 would accrue to a *Land* or a public law corporation or institution has been disposed of by the authority thereby authorized by means of a *Land* law, on the basis of a *Land* law, or in some other way at the coming into force of the basic law the transfer of property shall be considered as having been effected before the disposal

ARTICLE 136

1 The *Bundesrat* shall meet for the first time on the same day as the *Bundestag*

2 Until the election of the first federal President, his functions shall be exercised by the president of the *Bundesrat* He shall not have the right to dissolve the *Bundestag*

ARTICLE 137

1 The eligibility for election of officials [*Beamte*], employees [*Angestellte*] of the public service and judges of the federation, of the *Laender* [states] and of the *Gemeinden* [townships] may be restricted by legislation

2 For the election of the first *Bundestag*, of the first federal convention, and of the first federal president of the federal republic of Germany, the electoral law to be passed by the Parliamentary Council shall apply

3 The functions of the federal constitutional court pursuant to Article 41, Paragraph 2 shall be exercised, pending its establishment, by the German high court for the combined economic area, which shall decide in accordance with its standing order [rules of procedure]

ARTICLE 138

Changes in the existing organization or notaries in the *Laender* Baden, Bavaria, Wuerttemberg-Baden, and Wuerttemberg-Hohenzollern shall require the approval of the governments of these *Laender*

ARTICLE 139

The legal provisions enacted for the liberation of the German people from National Socialism and militarism shall not be affected by the provisions of the basic law.

ARTICLE 140

The provisions of the Articles 136, 138, 139, and 141 of the German Constitution of August 11, 1939, shall be an integral part of this basic law

ARTICLE 141

Article 7, Paragraph 3, first sentence, shall not apply in a *Land* in which on January 1, 1949, another legal *Land* regulation existed

ARTICLE 142

Without prejudice to Article 31, provisions of the *Land* Constitutions shall also remain in force, in so far as they conform to Articles 1 to 48

ARTICLE 143

1 Whoever by force or the threat of force changes the constitutional order of the federation or a *Land*, deprives the federal President of the powers accorded to him by this basic law, or who by force or the threat of danger compels him to exercise his powers in a specific manner or not at all, or prevents the exercise of his powers, or deprives the federation or a *Land* of a territory belonging to them, shall be condemned to penal servitude for life or not less than 10 years

2 Whoever publicly incites to an action within the meaning of Paragraph 1, or plots or otherwise arranges such an action in connivance with another person, shall be condemned to penal servitude up to 10 years

3 In less serious cases, a sentence of not less than two years penal servitude in the cases provided for in Paragraph 1 and of not less than one year imprisonment in the cases provided for in Paragraph 2 may be imposed

4 Whoever, of his own free will, gives up his activity or in case of participation of several persons, prevents a conspiracy, may not be punished in accordance with the provisions of Paragraphs 1 to 3

5 In so far as the action is directed exclusively against the constitutional order of a *Land*, the highest court of the *Land* shall, in the absence of any other regulation in *Land* law, be competent to pass judgment Otherwise the superior court [*Oberlandesgericht*], in the district of which the first federal government chooses its seat, shall be competent

6 The aforementioned provisions shall be valid pending another regulation by federal law.

ARTICLE 144

1 This basic law shall require acceptance by the popular representative bodies in two-thirds of the German *Laender* in which it shall initially be valid.

2 In so far as restrictions are imposed on the application of the basic law to one of the *Laender* enumerated in Article 23, Paragraph 1 or to a part of one of these *Laender*, that *Land* or a part of that *Land* shall have the right, in accordance with Article 38, to send representatives to the *Bundestag* and, in accordance with Article 51, to the *Bundesrat*

ARTICLE 145

1 The parliamentary council with the participation of the representatives of Greater Berlin shall in a public meeting confirm the adoption of this basic law, engross it, and promulgate it

2 This basic law shall come into force with the end of the day of its promulgation

3 It shall be published in the federal legal gazette

ARTICLE 146

This basic law shall become invalid on the day when a Constitution adopted in a free decision by the German people comes into force

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# Conclusion

# Conclusion

THIS book has described how seven nations are attempting to create or to perfect a democratic system of government The means used and the results achieved, however, differ substantially

For Great Britain, France, Italy, and Switzerland, democracy has a basic meaning which is shared with Americans Dorothy Thompson described this meaning with unusual clarity in one of her articles a decade ago when she named what she considered the three basic elements in Western civilization (1) the rule of law, (2) the scientific method, and (3) the Christian ethic The rule of law refers to the belief that the law is not the creature of the governors but is superior to them, that they too must act within its limits The scientific method is the belief that by and large not only can the people distinguish truth from error but the best way of vitalizing the truth is by the comparative method of confronting it with error, that therefore freedoms of speech, press, assembly, etc , are not only the privileges of but the necessities for the good life The Christian ethic, which could equally well be called the Aristotelian ethic, is the belief that the end of all social activity should be the development and the improvement of the individual personality, which is considered the *summum bonum* It is these three concepts that are at the basis of democracy as the Western world sees it

Over the basic common agreement on the democratic creed, however, there are considerable divergences among the democracies of western Europe Since these divergences appear at a slightly more superficial level than that of the basic agreement, they can better be shown by looking for the moment at another and more superficial definition of democracy, one used as a slogan in the French Revolution *Liberté, égalité, fraternité* Each of these terms represented an essential element in the democracy of western Europe, but in the countries whose governments are described in this book the relative importance of the three terms varies considerably

The French took as their own the second of these words, *égalité* The lucid French mind has sought the perfect pattern for government, something at once rational, symmetrical, and just *Le droit,* which in the mind of the Frenchman is still closely related to Montesquieu's concept of law as the relations that grow out of the nature of things, is at the core of French politi-

cal theory, and this too is based on a concept of equality Liberty, at least in the sense of individuality, is the birthright of every Frenchman He does not need a government to assure him this, rather he needs a government that, by insistence on equal treatment for all, disciplines the natural assertiveness of French individualism To the Frenchman *fraternité* is the least important of these concepts, and it is quite possible that, had not his aesthetic sense demanded the symmetry of a trinity, *fraternité*, which to the Frenchman is certainly the Cinderella of the trinity, would have been left out altogether

For the English, on the other hand, the concept of equality has never had so great an appeal No Western society has been built on more detailed and complicated a system of hierarchies than those that constitute Great Britain The supreme goal of British government is liberty—freedom of the individual to express himself as he sees fit The end to which all acts of the British government are expected to lead is this greater freedom Today under a socialist government, the British are putting up with a greater degree of regimentation than any other Western society has ever imposed upon itself in times of peace, but although the actions of the Labour party are at considerable variance with the precepts of Jeremy Bentham and his followers, who felt that the best government was the least government, the ends to which both schools of thought aspire are the same a condition of life that will grant the greatest possible liberty to the British subject

Italian democracy is in turn quite different from either the French or the British variety Rather than libertarian or equalitarian, it is fraternal This is why Italian democracy is more Christian than governmental This is why the family has such a vital and respected role in Italian culture Italy is the home of the Western democratic spirit, created there in the late Middle Ages and the Renaissance, and yet is the Western nation which by and large has been the least democratically governed This does not mean that the Italians think less of democracy than the French or the British, it only means that they see democracy from a less governmental point of view They are democrats in their personal relations They share with the British and the French the belief that the individual personality should be inviolate, but they add a ready sympathy with and compassion for all persons in distress and an anarchic practice of mutual aid, which are perhaps the key traits in the Italian character

In order to be accepted as an instrument of democracy, the Italian government must overcome a traditional distrust of government on the part of a large number of the Italian people, a distrust that is amply explained by Italy's history After a brilliant start the governments that followed the *Risorgimento* faltered, and failed to break through that distrust The present government is trying again If it succeeds, the mass of the Italian people will look on democracy for the first time in their history as a way of government

and not merely as a way of the people, usually in opposition to the government

Like the French, the Swiss have thought of democracy primarily in terms of equality That this has led to markedly different results in Switzerland is due to the fact that the Swiss culture is basically Teutonic rather than Latin The Teuton culture is essentially gregarious and conformist Equality in Switzerland leads to identity, in France it is a restraint on what otherwise would be an excessive individual eccentricity In France the search for equality is the search for an antidote with which to complement the individualism of the French character, in Switzerland it seems to play a more central role in the culture—equality unmitigated is itself the ideal

In western Europe democracy by and large is considered a way of life It is government by the people, through which they strive for whatever goals they may seek to attain We are more inclined to judge democracies by methods than by goals When the Russians use the word *democracy*, however, they are likely to ascribe to it quite a different meaning To them a democracy is a government for the people but not necessarily by the people Russians—perhaps it is more accurate to say Communists—designate as a democrat one who serves the people, all others are fascists There is no freedom of choice, however, as to methods of serving the people, the methods are prescribed by the Communist party, which monopolizes the power to determine what is the people's interest A democracy, then, becomes any government that in the eyes of the Communist party serves the true interests of the people This is how, according to the Communist definition, a dictatorship can be a democracy

To the Japanese democracy is a foreign concept, both in the sense that it comes from abroad and in the sense that it is not easily compatible with Japanese culture The present Japanese constitution has been imposed on an empirically minded people who appear to be impressed with the military strength engendered by the Western democracies and who seem all in all favorably disposed toward experimenting with this form of government in their own country in the hope that there too it may bear fruits less bitter than the military defeats that culminated in the overthrow of their late authoritarian regime There are indications, however, that Japan is aware mainly of the forms of democracy, and that for the mass of the people at least its substance is not perceived If this is so, they may fill the shell of democracy with the most incongruous elements and, rather than a democracy, make of their government nothing more than a parody of that system It would be foolhardy, however, to doom the Japanese experiment to failure at this early stage Democracy would be neither the first nor the last Western institution the Japanese have successfully imported and adapted to their use They are a conscientious and imitative people, they may even learn democracy

Germany, like Japan, offers Western democracy little to emulate In these instances it is rather our duty to give than to receive Except in the superficial aspects of camaraderie the German culture has lost most of the democratic traits sometimes attributed to the early Germanic tribes The Weimar constitution was a democratic one, inspired by Western ideals, but it did not gain enough popular support to withstand Hitler The Bonn constitution has yet to be seriously tested With encouragement from the West it is hoped that it will fare better than its predecessor

If for the present there is little America would care to copy from either Russian, Japanese or German democracy, it would nevertheless profit the American citizen to look carefully at the democracies of western Europe in order to get a better perspective on the strength and weakness of his own The Swiss ideal of democracy varies considerably from the American ideal American democracy is often associated with progress and abundance It is part of our "bigger and better" philosophy and of our belief that our economic prosperity has democratic roots In Switzerland democracy is associated with tradition and sobriety In six of the forest cantons, which in a sense are the cradles of modern democracy, there were in 1945 a total of only eight movie theaters (In one of these cantons, Obwalden, there was no movie theater at all ) Some Americans might think such "backwardness" impossible in a true democracy, yet Switzerland belies them The Swiss do not look on democracy as a quick panacea or as a method for accelerating change Their attitude toward their democracy is essentially a conservative one They do not feel in the least undemocratic because the men do all the voting and the women stay home To the Swiss, democracy means freedom from foreign domination and domestic tyranny, but it also entails a sober awareness of collective responsibility Through the principle of equality the Swiss have greatly curtailed poverty but they have also imposed a degree of discipline and conformity which Americans do not always like to associate with democracy Where Swiss democracy is equalitarian, American democracy aspires only to equality of opportunity with the sky the limit to individual attainment

The Swiss can show us that democracy does not necessarily mean abundance, a lesson which, incidentally, our American forefathers knew but somehow failed to pass on to many of us, it is to the British we must turn to find how liberty can be compatible with authority, for the delicate balance between liberty and authority that the British have managed to create is one of the miracles of history American democracy is anti-authoritarian The American ideal is freedom from restraint We are at the opposite pole from the Teuton, who likes to take orders as well as to give them Without authority, however, liberty may well become license, just as without liberty authority turns to tyranny [1] The happy balance struck in Britain appears to

[1] See Luigi Sturzo, *La Pensée Catholique et les Guerres Modernes* (Montreal, n d )

result from the peculiar attitude the British have toward authority To us it is essentially a master-servant relationship and that is why we so resent authority To the British it is more a relationship of mutual respect, for authority is really the expression of other people's points of view In order to work, however, this respect must be mutual, and it is hard to say which strikes the foreigner in Britain the most, the respect of the English people for their policemen as symbols of other peoples' points of view or the respect of the policemen for the sensibilities and prerogatives of the free British citizen

If the British have succeeded best in resolving the conflict between liberty and authority it is to the French we must turn for guidance through another of democracy's dilemmas the struggle of equality with individuality The French sense of justice and logic requires an equality before the law, but the French attach such importance to the inviolability of the individual personality that equality is never permitted to degenerate into sameness There is more to democratic equality than mass production, assembly lines, and repetitious rows of "model" dwellings French equality encourages individual differences and rejects even self-imposed regimentation of ideas or actions American equality, like that of Switzerland, is likely to become a Procrustean bed for the aberrant and the nonconformist

The fraternal lesson of Italy is perhaps the easiest for Americans to grasp It was an American philosopher, John Dewey, who called democracy "shared experience" Democracy entails a bill of rights to protect our liberties, graduated taxes and free services to reduce our inequalities, but it is also based on the humanist philosophy that was born with the Italian Renaissance Although Americans are inclined to believe that for those without a compassionate and considerate heart the gates of the Christian heaven do not open, they forget sometimes that without these same requisites people are forever barred from the terrestial paradise which is true democracy

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