CONSTITUTION-MAKING FOR FRANCE

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France resembles a region where volcanic forces have been recently active. Here and there the ground is seared by explosions. Deep chasms have opened. Rumblings are heard which may betoken fresh eruptions. The passions roused in three Revolutions are not extinct.

—Lord Bryce

FRANCE has now a brand-new Constitution. Whether her Third Republic expired in the spring of 1940, or then passed merely into a state of suspended animation, has been hotly debated by the French authorities on constitutional law. The power of the assembly which did Marshal Petain's bidding is declared by one group adequate, by another inadequate, to what it undertook to do. But the point is of merely academic interest. For all practical purposes the Republic had been extinguished in the spring of 1940, by the tanks and planes of German armed forces, and for all practical purposes it has been started again by the allied armies under General Eisenhower. Neither lawyers nor diplomatists, but military and aerial commanders, prescribed the change in 1940 and reversed that change in 1945. *Inter arma silent leges.* But whether France is now organized as the Fourth Republic or as the Third Republic continuing, it is at least clear that she has got a new Constitution. She is trying the venture of single-chamber government, for her so-called "Council" is a mere wraith of the discarded Senate, quite unable to determine or even to delay legislation, and the President has no effective veto.

At the outset of this daring experiment, it is interesting and it should be instructive to review the record of that French Republican system in which such profound change has now been made. First Republic, so quickly obliterated by Napoleon I, and the Second by Napoleon III, do not enter seriously into the development. It was the Third, whose Constitution was proclaimed in 1875, that prepared the way in its sixty-five years of troubled life for the development we have lately watched with such keen but pathetic concern.

How did its difficulties begin?

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Not quite fifty years after a Constituent Assembly at Versailles had agreed upon the outlines of the Third

Republic, it became plain to all foreign observers that France was under intense internal strain. Half a century's trial had by no means rendered secure the Constitution of 1875. How deeply it was hated from the very first, even by certain groups that had advocated its adoption, the course of the first twenty-five years of its working had made clear.

To begin with, its origin rendered it odious to not a few. It was a product of defeat; like the Constitution of Weimar, accepted with sullen acquiescence by German monarchists forty-three years afterwards, it was resented as a symbol of national shame. For those who detested it on this ground, it was easy to argue that the Third Republic had not been even the real choice of a Representative Assembly. Notoriously not more than 250 out of the 750 delegates called to frame a Constitution in 1871 were republican in principle. At least 400 were monarchists, of either the Legitimist or the Orleanist variety: three-fourths of these, if they had dared to speak their mind, would have pressed for the coronation of the Comte de Paris on the Throne from which his father had been driven, while the other one-fourth would have urged the claims of the Comte de Chambord.

Everyone knew that there were at least two dozen Bonapartists in the National Assembly, keeping their own counsel until it should appear safe to act. And of the remainder, some 320 who were not known to be definitely anti-republican, at least 50 had no interest except to be on the winning side. This motley gathering of delegates took four years of argument and appeal to get a majority vote for yet another trial of the republican form. How Bismarck might act, on pretext of intolerable French delay in constitution-making, was a consideration by no means negligible. Rumor that the Bonapartists were plotting a *coup d'état* seems to have decided the two main groups to be reconciled to each other in a hurry, lest an unspeakable outrage might fall upon both. In such ungracious spirit the Third Republic was voted into constitutional existence. How easy it was for any group that later desired its overthrow to point out, like Nazis ridiculing any conscientious bond to fulfil the *Treaty of Versailles*, that it was a "dictated settlement" unworthy of respect as soon as danger of breaking it had passed away and its ignoble origin was recalled!

From the first, for example, it was disliked and distrusted by the Church. Thirty years after the Constitution was proclaimed, the most celebrated of French literary men wrote

L'Eglise et la Republique, to show how experience had exemplified the fierce conflict which Reason might have foreseen as inevitable between these two powers. Their union, under the *Concordat*, was wittily described as not an embrace but a grapple, neither daring for a moment to relax its hold. The anti-clerical bitterness of civic rulers may be seen in the order that M. Viviani's speech after Church Disestablishment in 1905 should be printed and posted for public instruction on the walls of every commune in France: the speech declared that at length the State had extinguished a spiritual fire, and that none would ever be able to rekindle it. On the opposite side, bitterness was even stronger.

One reason for the feud was the Republic's memory—like memory in Soviet Russia—of the Church as docile agent of despotism under the *ancien regime*. Another was the Church's memory of the Republic as always dominated by freethinking secularists. So determined was ecclesiastical antagonism to the Constitution of 1875 that when, twenty years later, that most worldly-wise of Church rulers, Pope Leo XIII, advised French Catholics to "accept" it, the advice was received with feelings as near to insubordination as a good Catholic could allow himself. Marshal Lyautey's letters reflect the mood. A very few years after his enthronement, Leo XIII was insinuating into the minds of those he received in audience the advice he would later embody in an encyclical, and Hubert Lyautey was one of those whom he thus shocked. A papal audience in 1882 left him—as he wrote to a friend—"cowed at being the bearer of certain words, and at being honored with lofty pronouncements . . . profoundly troubled, with a sense of having lost my bearings." The discovery which had so startled him was that Leo XIII was recommending French Catholics to be loyal to the Constitution adopted by their country six years before:

> Every word remains graven in my memory, all the conversation I have had with those who have been in contact with Leo XIII, with all who are preoccupied and concerned with this question, confirms what I have heard—something which I would so gladly have been uncertain of having heard correctly; not only is the Pope not a Legitimist, but he dissuades one from remaining a Legitimist. That is the starting-point. Probably his visit as Nuncio to Brussels has some connection with this. There he was the friend and confidant of Leopold, that perfect parliamentarian, son-in-law of Louis Philippe . . . For France, it is towards the Republic that he is heading, and wishes also to lead us.[1]

1. *Marshal Lyautey*, pp. 28,29, by A. Maurois: Translation by H. Miles.

But Leo XIII was indeed this time the exception which made the rule regarding Church sentiment all the clearer. Marshal Lyautey lived to see what he thought sounder Catholic principles about the Republic enjoined again by Pius X, by Benedict XV, by Pius XI.

Such discord made the Constitution harder and harder to work. No doubt there would have been temperamental difficulties in any case. An occasional British enthusiast has been so struck with this matter of temperament as to declare that only those of "Anglo-Saxon inheritance" have the qualities of mind and character to make a parliamentary system succeed, and that conspicuously "the Mediterranean type"—Spanish, French, Italian—is without such prerequisites. One should be slow to believe that those who led continental Europe in breaking the chains of despotism are incapable of working the system, at once orderly and free, which they did so much to establish. Yet the troubled life of one French Republic after another—the Third submerged in 1940 like its two predecessors in a ruthless autocracy—suggests that the peculiar way of life we British and Americans call "responsible government" has conditions for its success which the French find it difficult to fulfil.

A fault much deeper than one of mere form or technique was shown by the rapid multiplication of parties in the Chamber. At first sight there is nothing obviously amiss with the "group-system" that quickly developed in the legislative assembly of the Third French Republic, as contrasted with the division into two and only two great parties which has prevailed in the British parliament and in the American Congress. It can even be argued that the French system, under which an elected legislature was practically certain of lasting its statutory four years, would ensure more stable government than the British habit of holding another general election when the party in office has suffered a single defeat in the division lobby, and only by facile recombination of groups was this French alternative practicable. Yet in the Chamber of Deputies during the years that followed the *Treaty of Versailles*, as in the German Reichstag of the same period, the multiplication of parties proved at once a symptom and a source of decay in the essentials of democratic government. Instability to a degree almost incredible! M. René de Chambrun puts it with terse vigor:

> In the short space of twenty-two years, between the victory of 1918 and the Battle of Flanders, the French Republic had been governed by forty-two prime ministers and more than one thousand ministers.[2]

This meant that no Administration was given time to work out any district plan of public improvement, and that responsibility for faults could never be fixed on any particular Administration as it is so readily fixed in Great Britain. There was always the facile defence "We were interrupted by loss of office before we had well begun."

At Westminster, where it is realized that defeat of the Government in a vote of the House will mean not only its resignation but also a dissolution of parliament and another fight by each member (at considerable expense), for his seat, members think long and carefully before they precipitate such a result. At the Palais Bourbon, on the other hand, where the deputies had no such alarming personal prospect to deter them, but knew that the only consequence of defeating the Government would be another kaleidoscopic shifting in the personnel of the Ministry, there was no reluctance to "give the premier a fall." There was even a temptation to do it often, for the private deputy had always a hope that his own time might somehow come, as transformations and regroupings continued, for some modest share in the spoils of office. Where Ministries were so often reconstituted, chance was improved for the hangers-on of a possible new Minister. What Bulwer Lytton once called "the glorious ferment in Parisian Society, bringing dregs to the surface!" There are dregs in a legislature, as elsewhere.

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In the France of ten years ago it was obvious to all visitors that something had happened to discredit still further a Constitution which at its best had enlisted but languid support. Something had damped even the old zeal for *Liberté, Egalité, Fraternité.*

This was obvious, for example, in the prevalent manner of speaking about Czechs, Poles, Spanish Republicans, and— as a luminous supplement— in the manner of speaking about Fascism. One could discern how the change was led by a certain group, long familiar to observers of the French political scene, but suddently stirred to an energy that betokened new hope, and no less plainly able to count on a stronger following. Mus-

2 *I saw France Fall*, p. 184.

solini's success had intoxicated the French anti-republicans like new wine. Effort after effort of their own to contrive the same sort of thing, in years gone by, had failed. As the oldest among them recalled the Boulanger project, and those not so old thought of the brief glittering promise in the Dreyfus affair, they had long despaired of upsetting the 1875 Constitution. Their royalist committees might hold conference; their collaborating women's royalist groups, wearing the emblem of the green carnation, might plan the ceremonial of Philippe's return; the young *camelots du roi* might brandish their white sticks amid the amused tolerance of onlookers in a Paris street; *l'Action Française* might present in every issue its headline about the forty kings who had made France, and its pungent anti-democratic satire from the pen of Daudet or Maurras: but there was no real hope of a royalist restoration in the breasts of those who knew practical politics. The hateful Republic had its roots too firmly planted! Not a single declared royalist could win a seat in the Chamber. The whole scheme, for the Bourbon exile in Belgium, was like a lingering Scottish Highland enthusiasm for Bonnie Prince Charlie.

But a new courage was born of the example on the other side of the Alps. The democracy which, so short a time before, it had seemed vain to challenge had collapsed there under Fascist attack. There must be something peculiar, something unique in the circumstances of post-war Europe that the genius of Mussolini had turned to such account. What Mussolini had done, others surely might imitate. Now, if ever, the hour for French anti-republican action had struck. Why not work from the Fascist pattern on French soil, and—who knows?—perhaps with the Duce's active co-operation?

Above all, in the disorder of the years that immediately followed the great economic depression, this hopefulness soared high. Revolutionaries always find their special opportunity in "hard times," and although France was among the last of European countries to feel the depression acutely, it reached her in the end, with the usual consequence in fierce complaint against the Government for incompetence or dishonesty or both. Watchers for the chance of an anti-republican *coup* felt that the tide had at last come to their stranded ship, and began to prepare for adventurous launching. Neither Boulanger nor the conspirators who forged the *bordereau* for indictment of Alfred Dreyfus had circumstances nearly so favorable for insurrection. The searching eye of Mussolini, with his sinister

knowledge of the pathology of parties in foreign States, detected this as the time to spend the taxpayers' money in great quantities across the Alps. How much in the sequel was due to the influence, at first covert, afterwards bold enough to act openly, which his agents brought to bear on French newspapers and leaders of groups in the Chamber, it is impossible to estimate. But it is generally known that Fascist bribery in hard cash on a lavish scale at the time of the raid on Abyssinia was the source of pretended fear on the part of deputies lest the Italian fleet might prove too strong in the Mediterranean for British and French fleets combined! It took time to work up to a climax of imposture such as that. Suborning witnesses (especially to falsehood against their own country) is an enterprise for both skill and patience. Zealots in Paris for the Hoare-Laval proposals of 1935 were not produced all at once. *Nemo repente fuit turpissimus.*

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The year 1933 will be ever memorable in the history of French democratic government. M. Daladier's problem was very much the same as the problem which two years earlier had confronted Ramsay MacDonald in Great Britain. On the one hand, a national deficit already at an appalling figure and still mounting fast year by year; on the other hand, stubborn—even furious—popular resistance to every scheme for either higher taxation or reduced expenditure. Large financiers would not hear of further demand in income tax (stopping a still larger percentage of dividends at the source), in tax on motor fuel and tires, in tax on the profits of water and gas and electric companies. They would welcome, however, a cut in the pay of civil servants, and with this—beginning at 5 per cent and rising to 10—M. Daladier proposed to attempt budget reform It would apply also to pensions, military and naval. But the civil servants were too angry, and too strong, for the Cabinet. The premier's following in the Chamber, under threats from the electorate, deserted him, and he resigned. Why not try an immediate and a gigantic inflation, asked certain business leaders. Daladier replied that he would rather resign: he knew too well how desperate under inflation would be the plight of the civil servants on fixed salaries, as prices would soar daily. In such circumstances, at the close of 1933, he yielded the helm of State to Albert Sarraut.

What could M. Sarraut do? Timidly he made again his predecessor's proposal to the civil servants, and met with the

same crushing reply. To observers, in relatively high-standard-of-living countries such as the United States, it must seem that a civil servant—or anyone else—with salary not quite equal to thirty-five dollars a month in American money has good reason to protest against further "cut". No doubt the 10,000 francs annually, below which M. Sarraut proposed to find taxable income, was worth more in purchasing power than its nominal equivalent in the dollars of the United States. But not even a considerable allowance for this would make the French civil servant's income, below 10,000 francs in January, 1934, appear fit for further government exaction.

How tense party feeling had become was soon to be shown to all the world by what happened in Paris on February 6, 1934. That scene on the streets round the meeting-place of the Chamber of Deputies was destined to come back to mind in the summer of 1940, when the section of French leaders so deeply involved in the riot reappeared as those "men of Vichy" on whom Mr. Churchill's biting satire was to descend. The outburst was quite a surprise. The good old placid journalist, Mr. Sisley Huddleston, less critical of Paris than he had been a dozen years before, had in a recent despatch from the spot paid his tribute to the French capital, relatively so calm "in this heaving, plunging world." How must he have felt when he had next to explain away the spectacle of 50,000 rioters battling there all night with 14,000 police, the Legislature breaking up in wild disorder, and machine guns playing from the steps of the Palais Bourbon? The pretext for the uproar was what had become known as "the Stavisky scandal"—financial sharp practice on a great scale by a fraudulent promoter whom French Cabinet Ministers had strangely recommended, and whose immunity from punishment had been attributed in the anti-government press to official connivance.

It was indeed an unsavory story, with enough foundation in fact—apart from the lurid imaginative glosses by which it was every day more and more embellished—to call for criminal prosecution against men in high places. President Roosevelt at that very time was taking strong measures to protect the American citizen against such piracy on the Stock Exchange, and anyone who suggests that official government connivance in a case of the sort was peculiar to the wicked French Republic may well be asked wherein the Bayonne Pawnshops affair was more heinous than "Teapot Dome" had been in the United States. France herself had passed through many a financial

scandal, and the Stavisky business was in some respects a trifle when compared with that of the Panama Canal corruption, in which not just one or two officials, but no fewer than one hundred and forty-six deputies were steeped in disgrace. Those most disgusted over Panama did not propose in consequence to overturn the French Republic, any more than those disgusted at Washington by Teapot Dome proposed to cancel the Constitution of the United States. The proper method of protest on the part of righteously indignant Frenchmen was not to assemble a mob of 50,000 in the approaches to the Palais Bourbon, to attempt storming the entrance with a volley of bricks and tiles and glass upon the guards on duty, to hurl policemen into the Seine and slash the bellies of their horses with razor blades. Twenty-three persons lost their lives that night, and what would have happened if the 14,000 police had not been able to stop the rush upon the Chamber where the deputies chiefly hated by organizers of the riot were shut up, it is not hard to guess.

From that date, more than six years before French Fascists openly preferred German domination to the continuing national sovereignty of France as a Republic, no informed observer was any more in doubt about the conspiracies in Paris. But the time had not yet come when the conspirators could venture to show their hand. A tentative experiment was tried in revising the Republican Constitution so as to strengthen the Executive at the cost of the Chamber of Deputies.

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Keen eyes in Berlin were, of course, scanning the Paris bulletins, and reports were pouring in to the Nazi inner circle from the agents so hard at work on a Paris "Fifth Column." Editorials in the British and American press were fairly laden with speculation on whether France would recover her republican balance by a drastic policy with her neo-Fascists, or would slip further and faster down the authoritarian slope to the surrender not only of her democracy but of her sovereignty. It was the latter alternative that was followed, not deliberately chosen, rather "blundered into." No drastic measures with neo-Fascists were taken; it was rather neo-Fascists who took drastic measures with the Republic. A palliative programme was tried in the first instance, under direction of the veteran Paul Doumergue, and a "National" Government including leaders of various parties. Doumergue was so popular, and—

in his old age—had such prestige all over the country: surely he, if anyone, could rally the patriotic effort which had never failed France at an acute crisis? When he set to work—in Mr. Werth's apt comparison, "like Cincinnatus to the rescue"—the leader of the *Croix de Feu* remarked that a poultice was about to be applied to a gangrenous leg! People remembered this afterwards, and gave Colonel de la Rocque credit for a keen analysis as well as a pungent epigram. Another jest of the moment was about the Cabinet of old men that had been brought together, the second week of February, 1934. "Do you realize," a Frenchman asked me, after examining the list of M. Doumergue's colleagues, "that their combined ages would be longer than the Christian Era"? In Berlin the comic press had a query "Why is France ruled by men of seventy-five?" The correct answer was "Because the men of eighty are dead."

Looking back upon that tumult in the Paris of 1934, with the development of subsequent years to suggest a clue to much that was then puzzling, one is struck by the sudden and immensely diffused fear that a Fascist conspiracy was at work against the Republic. A spectacular protest, meant to arouse the whole French people, was at once organized by the leaders of the working-class. The one-day General Strike of February 12th, not on any grievance about wages or hours of labour, but simply to advertise everywhere the horror and alarm of the French workpeople at the threat of a returning despotism, was the largest scale action ever taken by the French trade-unions. Not a single newspaper, except—suggestively—*Action Française*, appeared that day in Paris. *L'Humanité* estimated the number of demonstrators in the Cours des Vincennes at 150,000, and the trade-union officials boasted that not fewer than a million in the capital had co-operated in the strike. All over the industrial areas of France there was a like report, the figures from some showing even a larger proportion of workers in the display of proletariat solidarity. There was nowhere even a hint of violence: the police had no task but to look on, as that immense orderly multtitude registered everywhere its alarm at the incipient plotting against the free institutions of France. This one-day gesture of indignation and disgust was made not only by those always at the beck and call of strike-leaders: it enlisted those commonly aloof from any part in a strike—practically the whole postal service, for example, the school teachers, the municipal employees. "In the face of the

Fascist menace," said the inscription on the banner, "insurrection becomes a duty. We shall not allow the suicide of the Republic."

The formation of this "Popular Front" was watched with mockery, both of the alarms which had prompted it and of the remedies it proposed, by the venerable Cabinet Ministers who had come from various groups, at the call of Paul Doumergue, to "stabilize" France. Looking back, one notes in that group Henri Petain, then seventy-eight, directing the Ministry of War. Marcel Deat, whom we afterwards learned to know so well, was trying in the press his scheme for a French version of National Socialism. Tardieu, with his avowed belief that Frenchmen in a democratic Cabinet are nearly all either rogues or imbeciles, took office there himself, with purpose we may conjecture. "I am sure," said the eloquent and satiric M. Gaston Bergery, speaking in the Chamber when it opened under the Doumergue regime, "that none of you gentlemen on the government bench are Fasc sts: with all respect I add that one has but to look at you for assurance of this. But I am no less convinced that your government will, unintentionally and indeed unconsciously, facilitate Fascism in France."

It was hoped, by the best friends of France, that the opportunity of a new constitutional start in 1946 would be used to good purpose, and that the faults of structure which experience had so mercilessly disclosed in the years before the Second World War would be in some degree remedied. Much was again urged about the advantage of change either to the British plan of a legislature automatically dissolved by defeat of the Government or to the American presidential system with its "checks and balances."

But quite other influences proved too strong for influences urging the obvious improvement. The sudden rise of the Soviet Union to such strength in continental Europe had stimulated the French group insisting that an *entente cordiale* with Russia has become the supreme necessity, and the Communist effort was concentrated on reducing to a nullity that Second Chamber which had so often been a Conservative force in French domestic affairs. What M. Maurice Thorez and his associates particularly desired was such constitutional change as would make the Chamber of Deputies omnipotent. They had a vision of becoming able to "sovietize" at a stroke, by a majority in the only House which mattered, the whole French internal economy. No "checks and balances," no

"House of Lords," no agencies even of delay must be left to obstruct the sweep of passionate proletariat action!

Under the leadership of General de Gaulle, resistance was so organized against this proposal of the Communists that the first draft of a new Constitution embodying it was rejected on plebiscite. But with amendments, quite trivial in effect though apparently a compromise, it was accepted when sent down to the people again. General de Gaulle, adding once more to the record of great soldiers unable to maintain in politics the talent they had shown in the field, angrily refused to countenance any party in the succeeding election, and his withdrawal from leadership weakened the anti-Communist coalition just far enough to ensure return of the party of M. Thorez as the largest group in the Chamber. So now, besides the old conditions of instability, the French Constitution has removed the last safeguards against a chance vote of one House making a fundamental change in the whole economic system. As these lines are being written, news comes that M. Thorez, though leader of the largest group, has failed to secure election to the premiership. It may be that some remorseful misgivings are already at work. One could scarcely believe that the leader of Communists, who sabotaged the French military effort in the early months of the war by promotion of strikes in the munition factories, would be chosen seven years later as Premier of France. But why did the voters look so short a distance ahead as to place him in a position such as to make refusal of the premiership to him appear a constitutional outrage?

As things stand, the old disorder, checked from time to time by efforts to stabilize at the expense of consistency, will proceed again, its dangers having been intensified. All through the French people's fear of the "dictatorship" which they are told is the affliction of the British under a Premier with power to dissolve Parliament and of Americans under a President with powers independent of Congress! *O sancta simplicitas.* Stalin a guardian of personal liberty!