

Home affairs

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HOME AFFAIRS.

PIERRE BÉGUIN.

"The People's Rights and their Limitations" (Construction of a Dam at Rheinau).

The project for the construction of a hydraulic dam at Rheinau, a little below the Rhine falls, has already caused a great deal of ink to flow, in this country. Lovers of Nature have been roused to indignation by the prospect of seeing one of the most famous beauty spots in Switzerland disfigured by this new construction. Brisk polemics have taken place in the Press, and popular manifestations have occurred in the locality concerned.

This reaction proves that Swiss public opinion does not only preoccupy itself with material advantages. Quite rightly, it thinks that technical and economic progress should not be realised at the expense of "the beloved visage of the native land".

Nevertheless, the Federal Council has not yielded as a result of this popular campaign. It stood by the fact that it had granted in December 1944, in all due form, a concession for the construction of the dam in question, and maintained that it had the right to do so by virtue of the legislation in force. To disavow its signature would be all the more serious as it would then be guilty of a one-sided and arbitrary breaking-off of a contract and, moreover, it would then fail to carry out the international engagements concluded with our Northern neighbour, who is participating in the construction of this dam. Switzerland's signature must be honoured.

However, the adversaries of the Rheinau dam have not admitted that they are beaten. They have launched a Popular Initiative, the aim of which is to force the hand of the Federal Council. It provides for the insertion of a new order in the Constitution, which would have the effect of annulling the concession which had been granted legitimately, more than nine years ago.

It is an understood thing that the people are sovereign. They have the indefeasible right to change the principles which govern our political and social organisation. Nothing really new can be undertaken without the people's agreement. This is what is demanded by direct democracy, by that régime which we would not exchange for any other.

Thus, it would be perfectly within the attributes of the Sovereign People to modify, or to cause to be modified, those regulations in accordance with which the hydraulic concessions were granted. The People gave this right to the Federal Council. They could, if they so wished, take it away from the Federal Council and attribute it to Parliament, while reserving to themselves the right to the popular veto, represented by the Referendum.

At the same time, one may ask oneself if it would not be an abuse of the right to an Initiative, in particular and of the rights of the People, in general, to wish to revoke by means of a popular vote, a decision taken by the Government in a perfectly legitimate and regular fashion, in conformity with the laws in force. The people invest their authorities with certain powers. They have the right to make use of them. The people have the right to revoke

them. But, it would be a real abuse of this right to admit that the People can modify, with retroactive effect, decisions which have been taken in a legitimate manner by the authorities. This would be tantamount to the instauration of a reign of insecurity and of despotism. This would have the effect of rendering the signature of our country as being an act without value, which no longer inspires any confidence within as well as outside the country.

We flatter ourselves that we live in a law-abiding State. But, this would only be true so long as the Law continued to put forth all its effects, until such times as it had been modified.

The question which arises to-day is extremely delicate. It remains to be seen whether Parliament could not, eventually, put aside the Rheinau Initiative, by declaring that it is not binding because of its retroactive character. No such decision has ever been taken. It might, perhaps, be considered as being an infringement of the rights of the People. And this is, precisely, what should be avoided. In this particular circumstance one would be called upon to make a choice between two possible evils: the one which would result from the disavowal by our country of its signature, and the other which would result from a non-observance of a rightful claim on the part of the people. The alternative is full of dangers. For the time being, it is impossible to say how we shall manage to get out of this *impasse*.

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" Civil Mobilisation "

by PIERRE BÉGUIN.

The other day the Federal Council took a decision, the usefulness of which is indubitable, but which — if we are to believe the Press — raises serious objections.

It relates to the passive defense of the population, in wartime, that is to say, to the constitution of organisations for its protection and assistance. Such organisations are indispensable, for in war time civilian populations are entitled to being safeguarded in an efficacious manner. And, in order that such protection may be efficacious, it must already be organised in peace-time.

One may therefore conceive that the Swiss Government has deemed it necessary to invest the Communes with the right to mobilise within such organisations for the protection and assistance of the population, not only young men and girls, as from the age of fifteen, but also women and, in fact, everyone up to the age of sixty-five, including foreigners residing in this country. It would appear to be only logical that those persons who are not called upon to serve in the armed forces, should place themselves at the disposal of an organisation, the activities of which are primarily of a humanitarian and charitable nature. If this were not the case, then it would be necessary to entrust this task to members of the armed services and this, in its turn, would reduce by so much the military potential.

Nevertheless, there is one thing in the initiative taken by the Federal Council which has caused some surprise: the Government has decreed this measure, which constitutes a veritable mobilisation of civilians, by way of a simple Ordinance; it has deemed that it had the right to take this decision on its authority, a decision against which there is no recourse. At the most, Parliament could vote an imperative motion calling upon the Federal Council to go back on its decision. It could, also, refuse to grant the credits which will be necessary for the carrying out of this measure.

It must be admitted that the criticisms which are being put forward in all parts of the country, are not lacking in pertinence. The Federal Council has issued a simple Ordinance, a procedure which should be reserved solely for the application of administrative

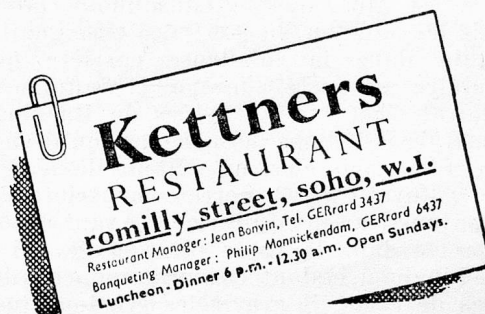
measures. Moreover, in order to establish its right to such action, it does not justify it by any reference to a constitutional Article, or to an Article which has been approved by the sovereign People, but to an Emergency Decree passed by the Federal Chambers some twenty years ago. Such a legal basis would appear to be extremely fragile.

And, this, all the more so, as the matter in question is most certainly not of a trifling nature. In point of fact, it is the obligation to serve which is extended to a new category of citizens and even to women and to foreigners. It is a fundamental decision that is in question: to oblige minors, women, and elderly people to join a service even if it be one intended for the assistance and the protection of the population, is to gamble with a principle, and this is going rather far.

Moreover, even if one admits that such a measure is indispensable one is inclined to think that it is a mistake to have recourse to an exceptional procedure. When a decision is taken in accordance with the most orthodox legal forms, that is to say, with the tacit or the express approval of the people, then this decision is invested with a strength and firmness which it is impossible for it to have otherwise. It also means, that it would make it more acceptable to all those who will have to bear the consequences which it entails, personally. From the psychological point of view, this consideration should have been borne in mind.

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