

# Total revision of the federal constitution [Continued]

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## TOTAL REVISION OF THE FEDERAL CONSTITUTION

Dr. Arthur Baur, Editor-in-Chief of "Der Landbote" (Winterthur), gave a lecture on this subject at an Open Meeting of the London Group of the Nouvelle Société Helvétique on 23rd May.

(Continued)

### Why a change all the same ?

In spite of this there is now a real trend for revising or reshaping the Swiss Constitution, and this matter is no longer only a topic for discussion but it has reached the state of officialdom, that means that federal institutions are dealing with it. The promoters of this idea were a member of the National Council and one of the Council of States: Nationalrat Dürrenmatt and Ständerat Obrecht. Independent from each other, they came to the conviction that a reshaping of the Swiss Constitution was due, and they asked the Swiss Federal Government to start the necessary proceedings. The first step is an investigation of the whole question, and that is where we are now. The next step will be the appointment of a Constitutional Committee, i.e. Parliament will have to elect a body which will shape the new Constitution. After that, the two Chambers must accept the new Constitution, and finally it will be submitted in a plebiscite to the whole people. It is compulsory that both the majority of voters and the majority of Cantons accept it. So it is quite a long way and it will take years to realise all that. The first idea of Nationalrat Dürrenmatt, which was to give the new Constitution as a birthday present to the Swiss people in 1974 when 100 years since the last total revision will have passed, has already been dropped.

Thus the proceedings have been opened. The Swiss Government accepted the two Motions by Dürrenmatt and Obrecht who had the support of both houses, and named a former member of the Swiss Government, *Alt-Bundesrat* Prof. Wahlen, as head of a body which is to make the first investigations. This body has published a list of questions which it addressed to the Cantonal Governments, to the executive boards of the Parties and to the Swiss universities. By the end of this year the answers must be ready. They will form the basis upon which the Constitutional Committee will have to work.

The text of the Motions of the two members of Parliament, Dürrenmatt and Obrecht, explains why they think a total revision is necessary. Both Chambers adopted their arguments and charged the Government unanimously to consider the question. Mr. Obrecht said, that there was a lack of consistency between the Constitution as it was framed in the year 1848 and the State in which we live today. Switzerland is a very different country from what she was 120 years ago. By simply joining amendments to the Constitution, we cannot create the real identity which should exist between the formal basis of the State and reality. The French like to speak about the gap "*le pays légal et le pays réel*". That's what we are driving at in Switzerland and even more so when we think about the future. Mr. Obrecht calls the Constitution as it now is a patchwork. This is one of his arguments, but there is one more and a very important one. He states that there is a growing discontent among the Swiss People, for which we generally use a French word, also known in English, "*malaise*". One of the reasons is the state of the State matters. A few years ago, the Swiss had to vote on the question whether at the gambling

tables in gambling saloons allowed in a few holiday resorts, one may lose five francs at once instead of only two francs as was the permitted limit before. This strangely, is not a question of law, but it is part of the Constitution as an amendment. On the other hand, the Swiss Parliament decided on the expenditure of some hundred million francs for buying military aircraft ("Mirage" type). About this enormous sum the Swiss citizens had not a word to say. That means there is either too much or too little democracy. But both cases were entirely according to the actual Constitution.

Mr. Obrecht stresses that especially young people suffer nowadays from the lack of a big task. They should be given a chance to work for a higher purpose, and he sees in the reworking of the Constitution a possibility to interest young people and to give them a chance to shape the State in which they are to live. This idea may be right. Mr. Obrecht also pays tribute to the Constitution of 1848, which was a masterpiece in combining centralism and federalism and creating a system which has worked very well. But then he speaks about the reasons why there should be a total revision now. He gives the answer under three items. First of all, he states that the Constitution lost its clearness and balance. Secondly, certain institutions are no longer adequate. That means they do not longer meet the requirements or answer their purpose. He alleges that large parts of the population lost their faith in the Constitution; the people no longer think that the Constitution, as it is, is the real thing and perfectly fulfils its aims. Finally, Mr. Obrecht discusses the question whether we are capable of realising this revision. He acknowledges the fact that we have no guiding idea for it and there will be no fights of *Weltanschauung* as to the shape of the new Constitution. The approach to the task will be pragmatic, but this does not mean, of course, that it is not necessary. Mr. Obrecht thinks that the time is mature for tackling this great task. It is a constructive one which is also necessary for the Swiss people who need an aim and guidance in the muddle of details in which we lose ourselves in every-day life.

It is not certain at all whether this big enterprise will succeed. There are many people in Switzerland who do not believe in it. Some are simply against it: They say that everything has worked alright so far and that one can easily carry on. Nothing prevents the Swiss from making more partial revisions, if necessary, and putting new amendments to the Constitution. Others say that they do not think it is possible to get a majority for a revised Constitution. In a panel discussion on this question, an editor said that in history only such nations had given themselves new Constitutions, which had gone through a revolution or war or some other catastrophe. He was probably right, but if one adds all the changes of modern times, they are equal to a revolution indeed.

### What could the New Constitution look like?

What should be done away with in the old Constitution and what should be inserted in a new one? First of all, one should throw out quite a lot of things which simply do not belong in a Constitution, because they are matters of law or not even that, such as the above-mentioned article concerning gambling saloons. Another thing is the prohibition of ritual slaughtering of animals, how the Jews do it, and the prohibition to prepare absinthe, the green, bitter, alcoholic and venomous drink. Then there are all the details about federal taxes which are continued

in the Constitution. In England, the taxpayer learns about his taxation in the next year on the famous Budget Day. In Switzerland, everything concerning federal taxes is contained in the Constitution, and every time a change in taxation is made, one needs a complicated revision of the Constitution with a subsequent plebiscite. It always astonishes foreigners that Swiss people vote about the taxes they are to pay and it is truly a surprising thing that it works. Still, it is too complicated and a loss of energy to have such things in a Constitution.

One more thing to be thrown out of the Constitution is the so-called Jesuit article. Actually this matter concerns two articles: 51, which forbids the order of the Jesuits in Switzerland and article 52, which forbids the installation of monasteries and religious orders. These two articles are in contradiction with article 49 which grants liberty of faith. They date from the fights which took place in the last century. They were not meaningless then, but nowadays they are out-dated. All the same it is not easy to do away with them, because the moment one discusses this question, old antagonisms between Catholics and Protestants are revived. Therefore, most people agree that these articles should if possible, be abolished before starting the big revision, in order not to cause religious controversies. As the Jesuit articles are in contradiction with the liberty of faith, they are also in contradiction with the universal declaration of human rights, and this is one more reason why they should be done away with.

Another matter which is in contradiction with the human rights, is the lack of the women's suffrage. This is also a debatable question which should be solved before the big revision. Switzerland is one of the very last countries without women's suffrage, but it is also the only country in the world, where the men have to decide this question in a general plebiscite. It is doubtful whether women's suffrage would have been introduced so quickly in many other countries if they had had a direct democracy, which means the obligation for the whole male population to vote on it. Women's suffrage has made big progress in the last years. Several Cantons have introduced it. A map showing the places where women's suffrage exists, would look like a funny patchwork. There is no doubt that the patches will extend in the next years so that the moment is not so far away when it will be possible to introduce women's suffrage for the whole Confederation.

(To be continued.)

#### A NEW SWISS PUBLICATION ON THE PRESS

Since the beginning of the year, on the 15th of each month, the Swiss Press Research and Promotion Centre (P.P.S. in Lausanne), has been issuing a bulletin intended mainly for Swiss newspaper publishers. This new trade publication deals with many subjects of interest to newspaper publishers today and keeps them informed on many topical questions such as the development of publicity by audiovisual means, press mergers, etc. It should be mentioned that the Swiss Press Research and Promotion Centre, founded at the beginning of 1967, has compiled a wealth of documentation on the problems facing the Swiss and foreign press today and has completed a number of surveys and reports on questions affecting the press.

[O.S.E.C.]

#### RECENT DEATHS IN SWITZERLAND

The following deaths have been reported from Switzerland:

Dr. iur. Leo Buehlmann (51), Lucerne, *Amtsgerichtspraesident*; was killed in a road accident on returning from the commemoration services of the Battle of Sempach.

Pfr. Alfred Blum (84), Thalwil, former Missionary at the High School at Mangalur (India); from 1926 to the outbreak of the war in charge of the Evangelical Middle School at Schiers; he became inspector of the Evangelical Mohammedan Mission in 1940.

Moritz Neu (66), Zurich, *Oberkantor* of the *Israelitische Kultusgemeinde* until last autumn.

Jacques Meier (78), Lachen, engineer and administrator of the Federal Linth Works and in charge of the melioration of the Linth Plain in the Cantons of Schwyz and St. Gall.

Dr. Ernst J. Lehner (72), Basle, well-known geologist in the service of Trinidad, Anglo-Persian Petroleum Co., British Petroleum, etc.

F. E. Kraehenbuehl (63), Berne, Central President of the Swiss *Wirteverein*; from 1944 to 1966 in charge of *Bahnhofbuffet* Berne; member of many organisations in the catering trade.

Julien Carrupt (69), Sion, former Commune President of Chamoson; died after a road accident.

[A.T.S.]

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