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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. This is the final instalment.

What is the future development?

The Cantonal Governments, the Parties and the universities received the "Catalogue" drawn up by the former Federal Councillor Wahlen and his committee; they are asked to study it and give their answers by the end of this year. At an example of how the question is treated, we mention the University of Zurich. The students appointed a large committee to deal with this task. They worked in different groups in order to study the various questions in the "Catalogue Wahlen". One group studied the relations between the *Confederation and the Cantons*. The country has gone a long way from the Sovereign Cantons to the situation of today. Theoretically, the sovereignty or autonomy of the Cantons is still adhered to, but in reality the Cantons are much more interested in getting money from the Confederation than to defend their autonomous rights. The idea of federalism has been discarded in a way. The subsidies which flow to the Cantons from the Federal Treasury are enormous, something like a billion francs a year.

There is also a tremendous flow of population between the Cantons. Most people don't work where they are born or where they have their citizenship. The influence of the big urban centres does not bother about cantonal frontiers and one can easily recognise that Baden in the Canton of Aargau has become a satellite of Zurich, the same is to be said about Rapperswil which belongs to Canton of St. Gall. One could easily give more instances of this sort. All this means that the idea of Canton is no longer so deeply rooted in the population as formerly, and it was interesting, even funny, to see what ideas the students of Zurich had as to the relation between the Confederation and the Cantons. The most revolutionary ones even wanted to abolish Cantons at all, give them new frontiers and transform them into districts. Of course, the power of tradition is much too strong in Switzerland, that something of the sort could ever become reality.

But on another question most of the students agreed: they said it should be made easier to split up or to amalgamate Cantons. The tendency is known of a few French-speaking districts in the far West of the Canton of Berne, the Jura-region, which would like to separate themselves from Berne, because they do not feel at home in that Canton. It turned out to be very hard, almost impossible, to do it. There are also enormous obstacles for the reunification of the two Half-Cantons of Basle. Though probably, they will finally get together again in a few years' time.

On the problem of allocating tasks between the Confederation and the Cantons, the students stated that questions of national importance should belong only to the Confederation. They quoted as examples the planification of the country, the fight for pure air and water, noise abatement, the reservation of agricultural territories, the building of national roads (motorways), and, most important and urgent, the unification of the school systems which are nowadays completely a matter for the Cantons. Generally speaking, one can say that the students are firmly opposed to the Cantons' autonomy whenever it endangers progress.

Another group had to deal with the topic "*Parliament*". Should the system of two Houses be maintained

or not? There was no tendency to abolish it, but some students thought that the idea of the first Constitution of 1848 should again be stressed: the Council of States (Upper House) should consist of the representatives of the authorities of the Cantons. There was an extreme proposition that the *Ständerat* should consist of the members of Cantonal Governments or their deputies whilst they should not be allowed to sit on the National Council (Lower House). There was also a proposition that the constituencies for the representative on the National Council should no longer be the Cantons but new, equally big districts. There again a tendency to cut down the importance of Cantons.

The students like all other groups which deal with these questions very seriously consider the relations between Parliament and Government. The "Mirage" scandal was, in a way, the turning point for the total revision of the Constitution. It was at that moment, that people realised that something was wrong in the State. How could it happen that the Government entered into an expenditure of more than a billion francs without Parliament realising what was going on. From that moment, everybody became conscious that the position of Parliament must be made stronger. A few minor changes have already been made. The tendency in our constitutional work is clear. It must not happen that Parliament lags behind the events, it should be able to foresee and direct them.

Another group of students had to answer the question in the "Catalogue Wahlen" what the *Government* should be like. They asked whether there should not be nine ministers (Federal Councillors) instead of seven, whether the President of the Government should not get a stronger position and whether the famous corporate system should be maintained. The Swiss system is completely contrary to the English one, where the Prime Minister is extremely strong. He names the ministers who are responsible to him. If a minister does not agree with the Premier he can simply be put out of office. In the Swiss Government each minister is a little king on his own. In spite of that, the Government as a whole is responsible for all decisions. In practice this does not work as it was intended to, because in these times it is impossible for one member of the Government to grasp all the implications of a question which is dealt with by another minister. So, as a rule, he simply has to accept what the other one proposes. One could clearly see that in the "Mirage" affair, when the responsible Minister of Defence did not quite understand what his administration was doing and the other members of Government did not understand what he had agreed to. In this light, the question was discussed by the students whether the corporate responsibility system should not be abolished.

Another problem which occupied them very much was the complete lack of *Opposition*. In Switzerland, all important Parties are represented on the Government at present. That system is called *Konkordanzdemokratie* because it is built on agreement between the different Parties. The students tried to work out a system which should make an Opposition possible. But it is not an easy thing because one cannot simply take over, let's say, the English system and do away with an old tradition which is defined by the famous word "Helvetic compromise". The Swiss are masters in compromising, but sometimes this goes too far.

Another question of Mr. Wahlen's concerns the popular rights, that means the political *rights of the people*. There are the rights of "Initiative" and "Referendum".

The Right of Initiative allows the Swiss citizens to propose changes in the Constitution, but there is no Initiative for laws. The students think that the Initiative for laws should also be introduced, because if not, there will again be a very crippled Constitution after a short time. Every topical question in Switzerland is nowadays transformed into a Constitutional Article because the people cannot propose laws. On the other hand, there is the Referendum, which means the submission of a passed law to a vote of the people for ratification or rejection. This Referendum is not compulsory, 50,000 signatures are needed of citizens who ask for such a Referendum. In most Cantons, there is a compulsory Referendum, that means, that one has to vote about every law and even about expenditure over a certain amount. The same happens in the Communes. The result of this is an abundance of voting. The Swiss go to the poll much more often than any other nation, and they are sometimes fed up with it because it looks senseless to vote for something which nobody is against and one knows beforehand that it will be accepted by a big majority. This happens quite often on the level of Communes and Cantons. The students thought that there was now not too much voting at a federal level, but at lower levels and they think that the Federal Constitution should put a stop to it.

A very important point in the "Catalogue Wahlen" is the relation between *Economy and State*. The mutual influence is very great today, and this is even acknowledged in the Constitution by an amendment in 1947, when it was fixed that the Government is obliged to consult the big organisations of economy, that means the employers, the trade unions, the craftsmen, the farmers and so on, in order to hear their opinion about a law which is in preparation. This sort of consultation is called by a hardly translatable word *Vernehmlassungsverfahren*. This little paragraph in the Constitution has become very important indeed, and in all deliberations about a future Constitution it is discussed whether and how this system should be altered. The general tendency, which was also adopted by the students, is to make the whole system clearer, that means more transparent. People should know from the beginning which organisations are consulted and which are their answers. Sometimes people get a feeling that things are happening without their knowledge and without their being able to influence them. The word *malaise* extends to this, too. That's why this consultation of economic organisations should be made public in a way.

Another question of the same chapter is the degree of *free trade*. How far should the Confederation be entitled to limit the freedom of industry and commerce? The protection of agriculture belongs also to this topic. The students are ready to give quite considerable economic competences to the Confederation, because it seems necessary to them that the State should have a say in a boom or in a crisis concerning national welfare. It will be one of the great items of the Revision to find the right boundaries between the rights and duties of the individual and of the State.

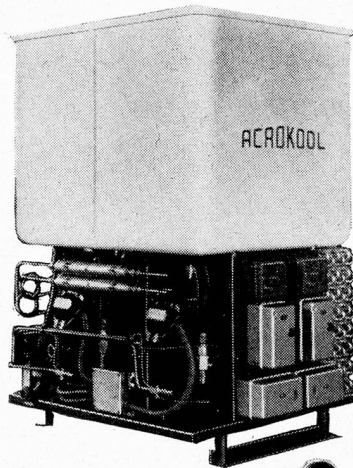
In any case, the human rights should be formally put down and granted in the Constitution. This is not the case in a sufficient way in the Constitution of today.

These few examples give an idea of the way the revision is being tackled. They also show some of the political problems of the day. These are topical even without the question of revising the Constitution and have to be dealt with in any case.

(Concluded.)

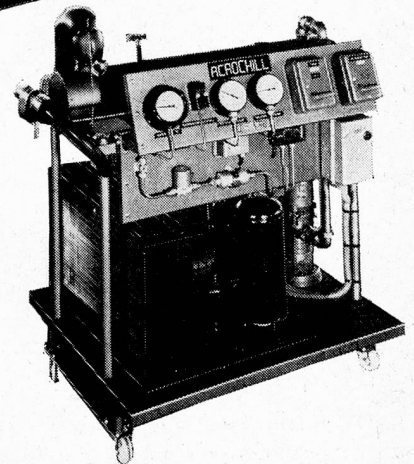
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